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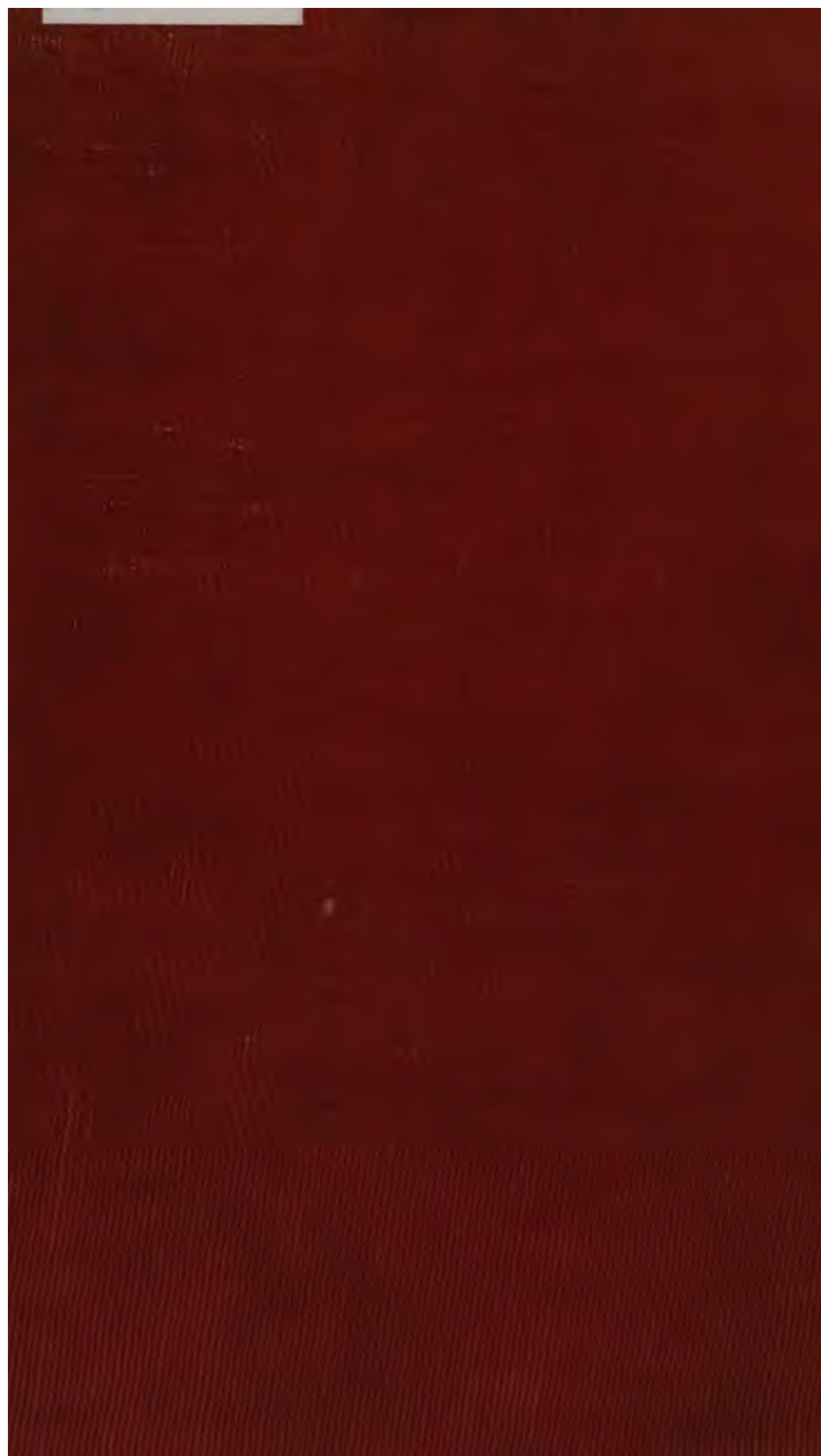
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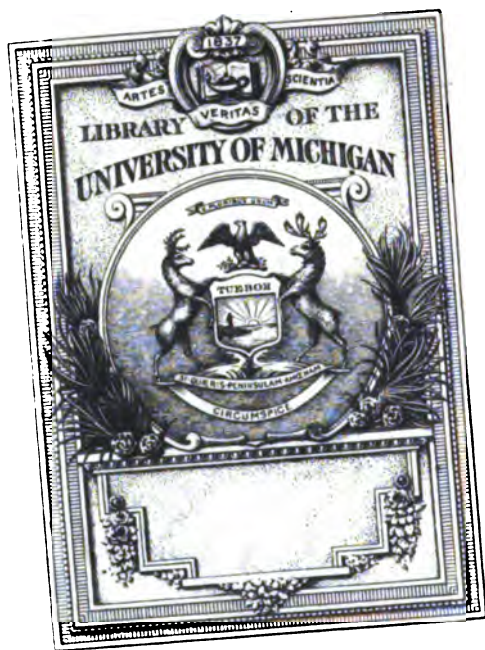
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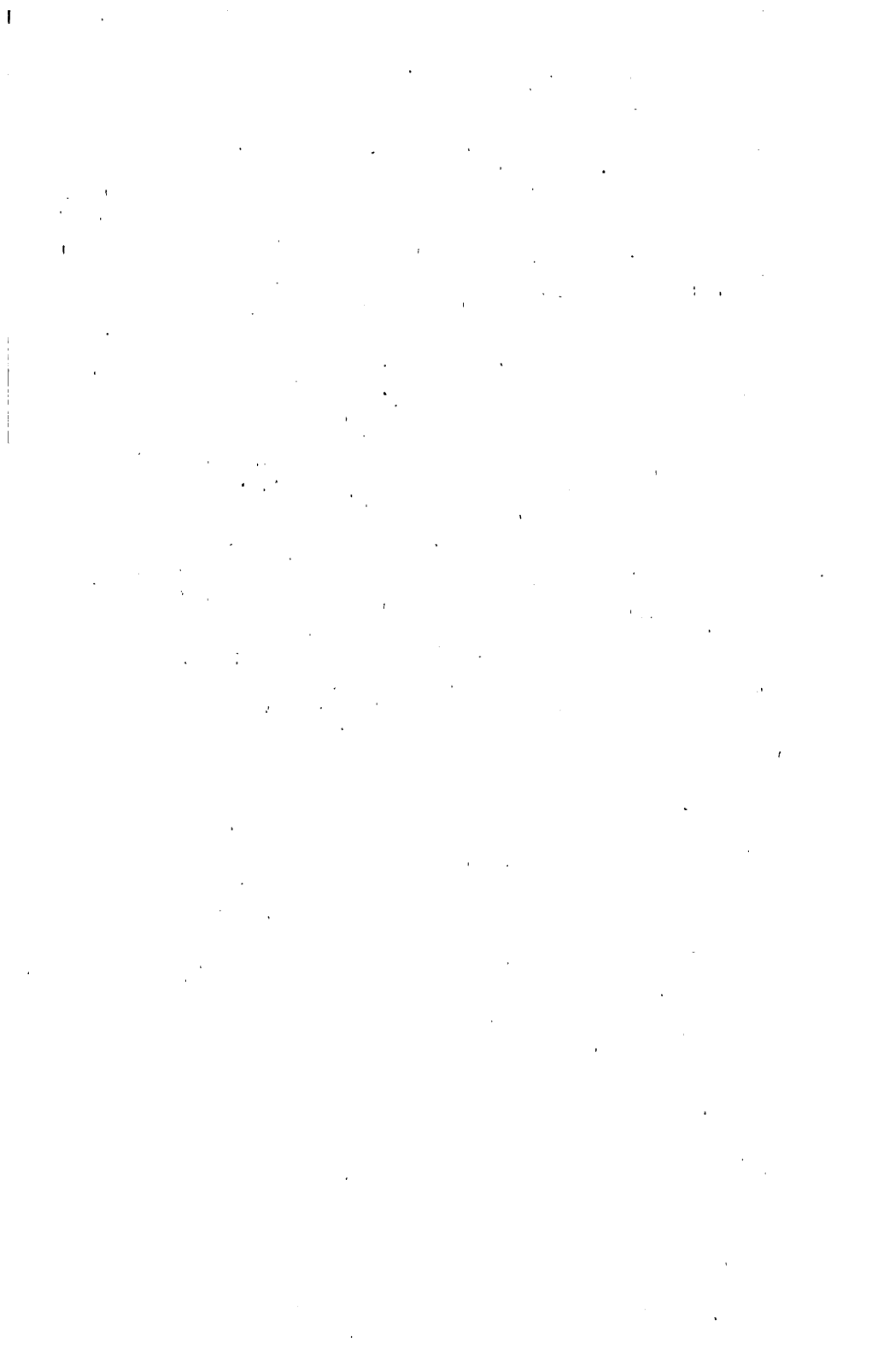
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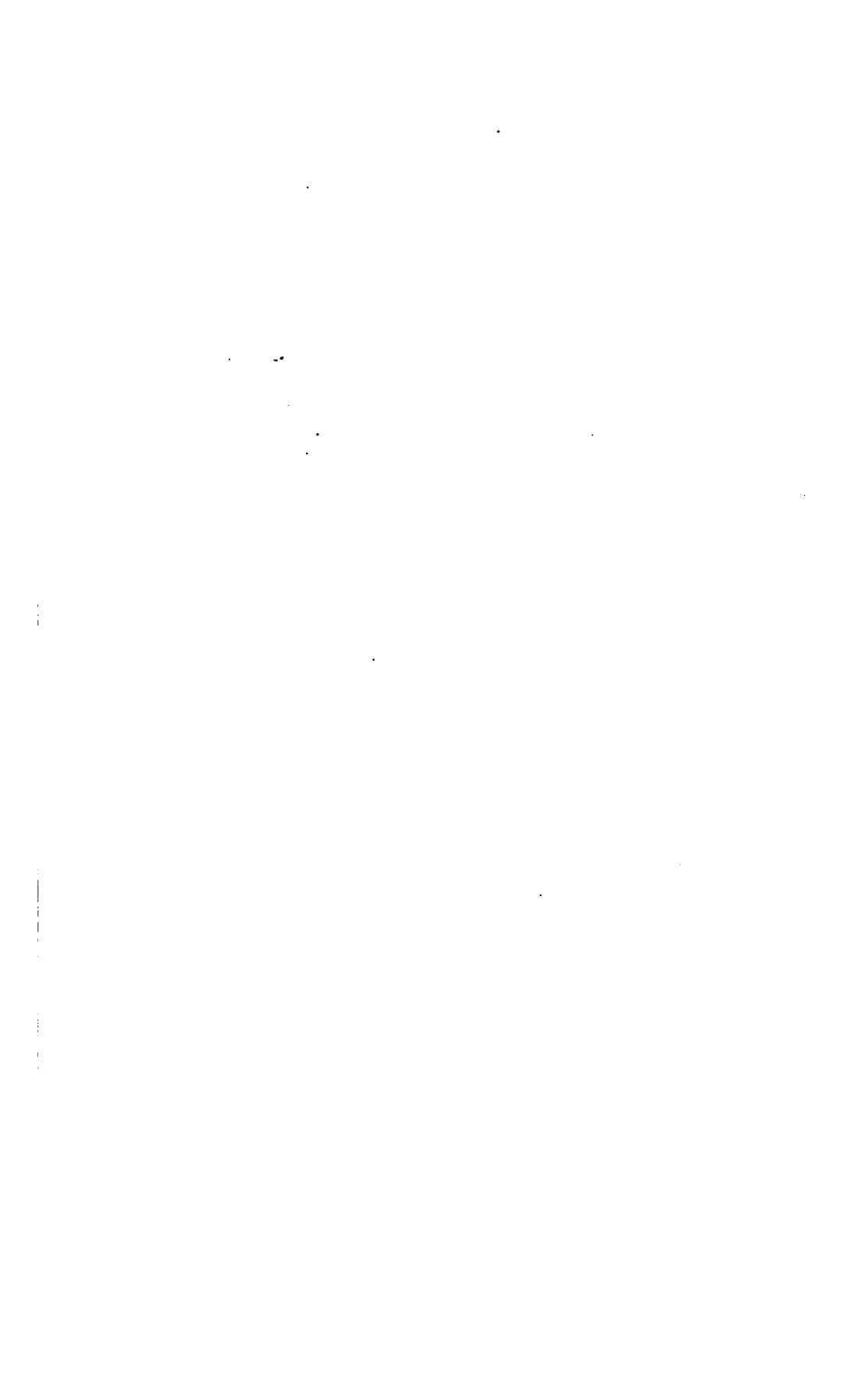
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LIFE AND TIMES

OF

SEARGENT SMITH PRENTISS.

BY

JOSEPH D. SHIELDS.

PHILADELPHIA:
J. B. LIPPINCOTT & CO.
1884.

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THE LIFE AND TIMES OF SEARGENT SMITH PRENTISS.

CHAPTER I.

ON the last day of September, 1808, in the town of Portland, Maine, Seargent Smith Prentiss was born. His parents on both sides were of a noble New England stock, and from them he inherited the talents and virtues for which he was in after-life so eminently distinguished. Casco Bay, upon which Portland is situated, has one of the finest harbors in the United States, and this gave the bent to the genius of her people. The father of Seargent was the master of a merchant ship, and drew his living by the sea.

"They that go down to the sea in ships, and occupy their business in great waters ;

"These men see the works of the Lord, and his wonders in the deep.

"For at his word the stormy wind ariseth, which lifteth up the waves thereof.

"They are carried up to the heaven, and down again to the deep ; their soul melteth away because of the trouble.

"They reel to and fro, and stagger like a drunken man, and are at their wit's end.

"So when they cry unto the Lord in their trouble, he delivereth them out of their distress.

"For he maketh the storm to cease, so that the waves thereof are still.

"Then are they glad, because they are at rest ; and so he bringeth them unto the haven where they would be."

Through the vicissitudes of the seafaring life—whose epitome is so beautifully described in the above quotation from the Psalms—the father passed the prime of his life, and expe-

rienced in its sublimity the poetic description in all its phases : the terror of the storm ; the joy in its lull ; the oft-repeated felicity of the return to the peaceful haven of his home. The life itself begets a habit of courage in the midst of danger, unselfishness, nobleness of feeling, and reckless generosity.

The maiden name of Prentiss's mother was Abigail Lewis. She was of a meek and humble Christian spirit ; her portraiture is best given in the last chapter of the Proverbs of Solomon, from the tenth verse to the close. A sailor's wife, "like her own merchants' ships from afar," her life was *freighted* with blessings to her household and friends.

Seargent seems to have inherited the virtues of his parents blended into harmony,—the self-reliant courage of the father with the most tender affections of the mother. When he was born he was perfect in his physical proportions, but while he was yet an infant he was attacked with a violent fever ; days, weeks, and months of weary watching passed, while his little life hung suspended in a balance. His naturally strong constitution triumphed ; but, alas ! the disease left its life-long mark in a lameness which followed him like a shadow to the grave. This misfortune was at once a bane and a blessing : it cast its shadow over his sensitive nature in retarding his progress through the world, but it forced him as a boy—debarred as he was from the athletic sports in which other children revelled—to seek amusement in intellectual cultivation. While his companions were playing he was studying, and the consequence was that in his tender years he acquired a vast amount of information, which he never seemed to forget and which he utilized in after-life.

Maternal love, like latent heat, permeates the mother's soul for all her offspring alike : sometimes it may become more visibly developed by peculiar circumstances, and it was thus with this mother and her afflicted child. Her constant and unremitting care and devotion for years after the disease had left him restored his strength. This care was requited on his part by an unwavering affection which amounted almost to idolatry.

He passed the days of his childhood in his native town. He was sent to the district public school, held about an eighth of a mile from his home. The manner in which he attended that

school was truly unique, and perhaps the like of it was never seen before. After his illness had subsided, he first began to move about on crutches; but of course it was too fatiguing for him to travel any distance, and so his elder brother, William, hauled him to school in a little hand-cart. It must have been a touching sight, this youthful act of fraternal devotion. The little cart, the little scholar, and the pony of a brother, would, it seems to me, make a pretty picture for a child's book to illustrate the rise of genius from an apparently unpropitious dawn.

When the war of 1812 with England broke out, the family moved back some eight or ten miles to near the village of Gorham. Here Seargent was sent to school to the Rev. Mr. Nasen, whose character as a tutor can be briefly summed up,—a Puritan in faith, a martinet in discipline, and an encyclopædia in knowledge. Under the tutelage of such a teacher it is no wonder the scholar grew rapidly in knowledge.

It is a great mistake to suppose that the boy achieved his greatness *alone* by intuition, for he was a close student. The difference between him and others of his age was the marvellous rapidity with which he acquired knowledge and his wonderfully retentive memory. This latter faculty in ordinary minds receives the impression of what is heard, read, or seen like the blur upon blotting-paper, but it was not so with him, the impression came out clear and distinct in his memory as a letter-press copy; nor was this his only extraordinary mental endowment, for he had, so to speak, a wonderful power of mental "assimilation"; he seemed at once to digest what he read, and it became a part and parcel of his being. Besides these two leading powers, he was gifted with a brilliant and fervid imagination that moulded his thoughts into visions of beauty. He had great logical powers, and, as we shall hereafter see, he always, in speaking, presented his propositions very clearly, and, though they were lit up with the coruscations of his imagination, he never lost sight of them.

He began school, as we have said, on wheels, but, as time moved on, the go-cart was abandoned and he hobbled upon crutches, these in turn gave way to a cane, and this was his support for the remainder of his life. Traditions have come down to

us of his sprightliness as a school-boy, and one old neighbor told the brother of Prentiss—after his fame as an orator began to spread—that he had heard the first stump-speech of the wonderful youth in an apple-orchard hard by to a mass-meeting of his playmates. It was so striking that it gave a presage of his future brilliant career.

When nearing the close of his school-boy days, his father determined to give him a collegiate education. His physical defect unfitted him for the life of a farmer, and there was no other way open for him but a professional career. Had he been a dullard his father would have cheerfully borne him along the journey of life to its close, but he saw that there was that spark of genius within which only needed development to insure success.

The boy of sixteen had so improved his time in the Gorham school under Tutor Nasen that, with a bound, he overleaped the Freshman and Sophomore classes of Bowdoin College and applied to enter the Junior class. This application to enter the advanced class was based upon the score of a *double* economy,—that of the purse and of time. The limited resources of the father required him to husband with care the means with which to rear and educate a large family; and Necessity whispered to the youth that he must get to work within the shortest possible time.

When he presented himself for the advanced class, his extremely youthful appearance and his physical infirmity excited the sympathy of the examiners. Professor Packard, upon whom the duty of examining him fell, began very gently, so as to put the youthful neophyte at ease; years afterward he told the story to the younger brother of Prentiss, who has embodied it in the "Memoirs."

The boy of sixteen who enters college has a perilous voyage before him, and none but he who has tried it can fully appreciate its dangers. Freed from the restraints of home influence, and unsuspecting in his nature, he is the more easily tempted, and often led astray; more especially is this the case with a boy of genius. His very brilliancy attracts boon companions, and his very hilarity sometimes insensibly glides into dissipation.

Fortunately, Seargent passed safely the crucial test; he fully realized, though but a youth, the responsibility of his position.

He knew he had but *two* years in which to accomplish a usual *four-years' cruise*. He mated with the steadier sort of the youthful crew, and so passed with distinction through his course.

While at Bowdoin he gave earnest of his future brilliancy, and the prediction was then made that he would make his mark in the world. Besides pursuing his ordinary prescribed studies he joined a select literary society,—composed of his college-chums, Aphorp, McClellan, Appleton, Paine, and Lord,—the main object of which was to improve the members in *extempore* speaking. The rule of the society was, that when it met some question should be sprung for immediate debate, and then each member was to give his views, without a moment's preparation.

In all my reading I never read or heard of such a society before. Its name was a compound of Greek and English,—“Spouteroi,”—and expressed its object. The *spouting* of the youngsters must have been, at first, very crude, but of course they improved by practice, and the habit learned in this boyish forum may have given the bent to the genius of Prentiss that gave him, in after-times, such extraordinary facility of (to use the expression of Judge Alexander Walker) “thinking on his legs.”

In the severer college studies his college-mate, Hilliard, says, “He studied the most abstruse branches with the same facility as the lighter ones. He seemed to master ‘Butler’s Analogy’ without apparent extra effort, while at the same time he fed his imagination with the works of fiction.” Shakspeare, Byron, Scott, Milton, “The Arabian Nights,” “Don Quixote,” and Lemprière, all contributed to swell the volume of beauty that in after-years he used to lavish in such prodigal profusion. While he stood high with his professors, he ranked yet higher with his fellow-students, for he exhibited to them traits of genius unknown to the faculty.

It was during his college career, while winning golden opinions from professors and students, that an overwhelming calamity fell upon him. His father, who had looked upon him with so much pride and affection, fell a victim to that same insidious disease which afterwards carried to the grave his illustrious son. Those who have passed through life without a father’s guidance

and affection experience a yearning that never can be gratified, but it is only when a youth is old enough to have looked up to the father for guidance, and felt his love, that he can appreciate the loss when it falls.

Independent of the anguish of his heart at the death of his father, Seargent, then but sixteen years of age, felt that a heavy responsibility had fallen upon his shoulders. He was to take the position and help his elder brother, as the head of the house, to be a comfort, as far as in him lay, to the bereaved mother, to be a father to the younger children. How he discharged these solemn obligations will be seen in the course of this narrative.

His college career closed on the second Wednesday of September, 1826, when the degree of "Bachelor of Arts" was conferred upon him by Bowdoin College, a name rendered classic by the reflected glory of so many of her illustrious alumni. Of course the graduate felt the elation that it is supposed an imprisoned bird feels upon its being released from the cage, but it was tinged by the sadness of bidding adieu to his young companions. For some of these he had formed an attachment that outlasted their ephemeral college days and lingered to the close of life. Appleton seems to have been the one to whom he was most devotedly attached, but he died in the very spring-time of early manhood. Samuel S. Boyd was the one with whom he was thrown in after-life, and their destinies were partially linked together. A touching tribute has been paid to others of his companions in the beautiful "Memoirs" by his brother.

After leaving college he had but a brief vacation, for, young as he was, he had no time to spare for recreation or pleasure. Accordingly, on the 20th of September of the same year, just on the verge of eighteen years of age, he entered, as a student of law, the office of Judge Pierce. With him he studied law just ten months. He had the happy faculty of adapting himself to his situation, of domesticating himself and becoming a part of the family with whom he lived; this was owing to the natural kindness of his disposition. And so it was here; Mrs. Pierce lost her sister during the absence of her husband. Seargent acted throughout the painful scene with all the tenderness of a brother, and consoled by his sympathy the distress he could not wholly

alleviate. It is in the hours of sorrow that the affections take deepest root and bloom to perfection, and his kindness to them then more than repaid the obligations he was under to the family. The pride with which they watched his after brilliant career was blended with the affection for the boy student of law.

The time of fallowing, so to speak, of the professional student is a sombre epoch in one's life; it was so with young Prentiss: occasionally there floated over his spirits fits of gloom and despondency bordering on cynicism. He felt depressed at the idea of being, even for a time, a drone in the family hive, not making anything. The world was to him out of joint, and he chafed for the opportunity to prove himself equal to cope with it. He continued with Judge Pierce for nearly a year, but his impatience for self-support grew so strong that he determined to strike out for himself. He had said when a boy that he was determined to have a profession if he had to learn a shoemaker's trade and work until he got enough money to educate himself; now that he was well on the road he would launch out for himself, and complete his profession on his own means and from his own toil.

The sentiment that had been poetically expressed by Bishop Berkeley—"Westward the course of empire takes its way"—seemed to be now in the full course of its fulfilment, for the current set that way, and hundreds of ambitious New England youths thither turned their eyes to seek their fortunes. Young Prentiss caught the contagion; his ambitious hopes were briefly summed up: he would emigrate to the West, he would teach a school, study law, make a fortune, and then return to the home of his childhood to enjoy life in the midst of his friends.

How often has that dream of ambition been realized but in part! how often has the young sapling transplanted to other soil, after its roots are deeply struck as an exotic, found it impossible to tear itself from its adopted home! Be that as it may, it was the *chateau en Espagne* that determined the movement of Prentiss. It cost the heart of his mother a bitter pang to part with him for such a perilous journey and such a hazardous venture, but the necessity was inevitable and had to be endured. As her hand had nursed him so tenderly in his infancy, so now the same hands, with provident care, plied the needle to give him

such an outfit in clothes as to place him above want in that respect for at least two years. In his letters back to his home he lovingly refers to this provident care of his mother in terms of affectionate gratitude.

It was on the 1st of August, 1827, that the boy of eighteen took leave of the family for his long journey "to the land of the West." Like our first parent, Adam, at the gate of Paradise,—

"The world was all before him where to choose
His place of rest, and Providence his guide."

Amid the tears and blessings of the little group he mounted the wagon drawn by the old gray horse of the family and went his way to Portland. From there he took the steamer to Boston. This great city was then, as it is now, to the New England boy what Mecca is to the Mohammedan. He lingered there some four or five days, visiting his friends and revelling in its historic associations. He then resumed his journey "Westward ho." He took the stage from Boston to Providence, and thence the steamer to New York. He was armed with those blessed inventions, letters of introduction. I call them blessed, for they are the life-buoys to the young stranger in foreign waters to keep him afloat until he can himself swim without them. Judge Pierce had given him a letter to Mr. Thomas Fessenden, of New York, and on reaching there he presented it. That gentleman gave him a kindly greeting and a helping hand by introducing him to others.

He put up at the "American Hotel," away down Broadway, in the then fashionable part of the city. He seems not to have been much struck with admiration for the great metropolis. Alas! how could a mere youth as he was, voyaging to an unknown world, have the heart to enjoy anything?

"His heart was in the Hielsands,
His heart was not there,"

and the shadow of memory lengthened the farther he left his home behind him.

He lingered in New York only three days, but there, as elsewhere, he ingratiated himself with the few persons to whom he

was introduced. Before he left there Mr. Fessenden gave him a letter of introduction to his friend, Judge Wright, of Cincinnati.

He left New York on the 10th of August, that witching time of the year when the coming autumn in that climate begins to breathe its invigorating air. With a poetic eye he revelled in the beauty of the Hudson and its scenery. The Palisades, the Catskill, the Tappan Zee, West Point, each in succession, as he passed them, imbued his soul with their softened sublimity. It took just twelve hours to make the trip of one hundred and sixty miles to Albany; and, as a reminder of the way they managed to save time in taking on passengers on the route in those times, we give an extract from his letters to the "old folks at home":

"Just before arriving at a landing-place," he writes, "the small boat was let down, having a long rope attached. Passengers and baggage were put aboard and let loose. The small boat would then run along to the landing-place, leave the passengers, take in new ones, and the rope being immediately attached to some machinery on the steamboat, in a few minutes the small boat was along side and taken in, and the steamboat all the while under headway at twelve miles an hour."

He passed through Albany without stopping and took the route through the lovely Mohawk Valley, partly by way of the canal, at the rate of three and a half miles per hour, and partly by stage to the then village of Buffalo. From there he went to visit the falls of Niagara. His first impressions about them are best given in his own language:

"They are truly grand and magnificent, but I must confess I was somewhat disappointed in them, especially in the noise, which is not half so great as I anticipated; still they are probably the most sublime and tremendous in the world, and I have no doubt if I should see them again I should be even more struck than at the first time."

Such, I believe, is the experience of nine-tenths of visitors at their first sight of Niagara. It is only when revisited after the first view that their awful sublimity fully impresses itself upon our minds. When we *return* and see the sparkling rapids "leaping and dashing and splashing" along; when we behold for a second time the awful plunge of the "inland sea,"—the yeasty waves churned to a milky whiteness in the caldron below,—the ever-changing but ever-present iris hues; when we hear again

the sullen roar like muffled thunder,—it is then we realize that they are a continuing sublimity, and the thought springs up that the mighty cataract has been pouring thus from the dawn of creation, and that its roar mingled with the music of the spheres “when the morning stars sang together and shouted for joy;” it is then we pause, wonder, and admire, and no expression can give utterance to the height and depth of our feelings. A gentleman was once escorting a lady by moonlight on the “Iris Island,” of course each was wrought up to the pitch of enthusiasm. Casting her eye up the Rapids, the lady in a rhapsody exclaimed, “It reminds me of Shakspeare’s description of Cleopatra, ‘Beautiful in endless variety.’” “It is rather more like Mark Antony’s funeral oration over Cæsar,” dryly replied her companion,—“‘Oh, what a *fall* was here, my countrymen!’”

Prentiss lingered about the place seven or eight hours drinking in its sublimity, and then returned to Buffalo. From there, on the 18th of August, he shipped to Sandusky. From this place he took the stage and, as he expresses it, “travelled over very bad roads” to Cincinnati, where he arrived on the 26th. Here he had the pleasure of meeting his old class-mate, S. S. Boyd, who was also a youthful emigrant to the West, in search of a place at which to settle.

At the proper time Prentiss delivered his Fessenden letter of introduction to Judge Nathaniel Wright, and thus paved the way to a life-long friendship. He cast about for a few days as to the expediency of taking a school to support himself, but the idea was abandoned, and on the 28th he entered Wright’s office as a student of law. But under this arrangement there was no flow of income and an ever-ebbing of expenses. His funds gradually waned lower and lower, and his impatience waxed higher and higher. His thoughts turned to another exodus, and that was to be farther south.

A story is told of him that illustrates his idea of the place where a fortune could be made. He was sauntering to the office one day, when seeing an apple-boy, he tossed him a quarter of a dollar, took out a few apples, and walked on into the office. When he came out again he saw the little fellow still standing as though waiting for something.

"Well, my little fellow, not gone yet, eh?" said Prentiss.

"No, sir; I was waiting for you to tell me where to carry these apples you bought."

Prentiss turned to Boyd, who was standing by, with a look of astonishment, and in a tone of comic drollery said,—

"Boyd, I'm bound to go farther,—somewhere. This place is too cheap to thrive in. Phew! I can never make a living where apples are two bits a peck."

The above incident gives a glimpse into his feelings, and shows he was not satisfied with the locality. He, however, applied himself diligently to his studies, and here, as elsewhere, endeared himself to the new-made acquaintances, but he felt a yearning to try another field.

Fully making up his mind upon the point to go as soon as he could, he consulted with Judge Wright, and proposed to teach school for a while, and thus raise means to bear his expenses to another place farther south. Here his noble friend, Judge Wright, stepped forward to assist him. He loaned him money enough to bear his expenses. It was an act of noble generosity, and set the example to him that he always followed in after-years; that was, to help young men in their early struggles in the beginning of life.

His relation, Hon. Bellamy Storer, a member of the Cincinnati bar, just at this crisis of his destiny introduced him to two of the wealthiest men of Mississippi, Alvarez Fisk and Stephen Duncan, who were at Cincinnati, then *en route* for their homes in and near Natchez. These gentlemen assured him that there would be no difficulty in getting a situation as teacher that would yield him a support.

About the 1st of October he bade adieu to his Cincinnati friends, and embarked for the land of the South. The first news that his family heard of "his new departure" was by a letter from Louisville explaining the motives.

The trip from Louisville down the river was very tedious on account of the low water in the Ohio River. Prentiss fully realized the sarcasm of John Randolph,—“It was no river at all, as it was frozen up one half of the year and dried up the other half.”

What the feelings of Prentiss were when he emerged from the pure waters of the Beautiful River into the murky waters of the Mississippi we know not, as he has left no record of his emotions. Whether like Bilboa, when he looked from the mountain range into the newly-discovered Pacific Ocean, his mind was filled with vast conceptions of the future or not is sealed. We only know that the mighty river became, as it were, a part of him, and furnished to his imagination in a varied form some of his sublimest illustrations of power and beneficence.

In his letters home he tells how monotonous was the life on the steamboat on that three weeks' journey down the river. The boat on reaching the most difficult bars would lie up, lighten into barges, and send out pilots to sound the channel. The passengers on these occasions would scatter for exercise on land. Prentiss once took advantage of one of these stoppages *in transitu* to have a hunt, as he was passionately fond of that sport. He became so interested in the chase that he forgot himself and went too far, and to his consternation, when he got back, found the boat gone. What his thoughts were just then would be hard to describe,—a stranger in the woods on the banks of the great river, short of funds, and with no boat in prospect for weeks; even his strong courage for the moment, no doubt, quailed at the gloomy situation in which he was placed, and that by his own heedlessness. Fortunately, the owner of a log cabin on the bank told him that if he would cut across the neck of the peninsula he might head the boat at the wood-yard below. It is probable that he footed it through the brambles of that peninsula a *little faster than he had ever travelled on foot before*. Great was his exultation on finding that he was not too late; he reached the boat while she was rounding to, and was welcomed by his companions as the "*lost* that was found again." He did not venture far after that, and in due time arrived safely at his journey's end.

On the 2d day of November, 1827, he landed at Natchez, and on his first *entrée* he gave a striking illustration of his remarkable self-reliance and kindness of heart. He had taken leave of Messrs. Fisk and Duncan, who had gone to their respective homes. He went to the then famous hotel, "The

Mansion House," kept by John Bell; it has passed away, and the site is now occupied by a cotton-factory for the spinning of other yarns than those of the tongue. As he entered the office he saw a crowd of strangers, and as he cast his eyes around, he failed to detect a beam of kindness, much less a smile of recognition. He had but five dollars in his pocket,—the last of the loan from his friend Wright and others. He thought that as long as he had that in his possession he would feel dependent on it; so he determined to invest it at once in the, to him, most paying way. Having registered his name and secured a room, he stepped to the bar, laid down the last five dollars he had in the world, and ordered up a bottle of wine and a box of cigars to his room. He had been struck with the fine countenance of one of the waiters at the hotel, and he fancied that the boy looked kindly on him. So when he came into the room he offered him as a welcome a glass of wine and a cigar. Of course the humble menial was struck with astonishment at this act of condescension, for he had only been accustomed to the "*heel-taps*" heretofore, but he was chatty, and readily entered into a talk with the young stranger, whom he, no doubt, thought was the very finest young man he had ever met with.

In after-years, when Prentiss was twitted and censured by his friends for his act of improvidence in thus spending his last stiver, he retorted on his censors, "You don't understand human nature; that five dollars *established* my *credit*, and I never had any trouble with my landlord afterwards; besides this, I thought to myself, 'Well, now the last of my little pile is gone, and I feel for the first time that I am thrown upon my own resources. I can make my own way in the world, and I will.'" Thus we see explained that there "was method in his madness."

For about twenty days he lingered in the town watching and waiting for a situation.

"No flower of his kindred,
No rosebud was nigh,
To reflect back his feelings
Or give sigh for sigh."

CHAPTER II.

JUST twelve miles northeast of Natchez, on a little creek, called Fairchild's, the southwestern boundary of Jefferson County, there stands an unpretending country residence. They who settled the place had the good taste to leave the forest-growth in the yard, and so it was shaded by the oak, the pine, the holly, the poplar, the linden, and the elm. The house stood on the crown of the hill, and was a rural pleasant home. The plantation was opened about the time that Walter Scott was delighting the literary world with his poems, and the owners named it after the poem issued on the last day of December, 1812,—“Rokeby.”

The owner of “Rokeby,” at the date of Prentiss's arrival in Natchez, by a singular coincidence, bore in some respects a similarity of condition to that of his mother in Maine. Like her, she was a widow with a large family; like her, she was a member of the same Christian communion; and like her, she was a refined and educated lady.

Associated as she had been, all her married life, with a husband of superior intellect, there had been gathered in the home quite a large miscellaneous library. Her husband had been a lawyer, and had successively filled the bench as a Territorial judge, and at the time of his death was judge of the District Court of the United States. In the course of a twenty years' practice he had gathered, as it were, by annual “accretion,” one of the best private law libraries in the State, and it was *that library*, in part at least, gave the *turning-point* and *moulded the destiny* of S. S. Prentiss. It was the magnet which drew his attention to the situation, and for the time fixed his purpose.

On the 20th of November, hearing that Mrs. Shields wanted a private teacher for her children, he rode out to “Rokeby,” and there for the first time met the family. Fortified with letters of

recommendation he introduced himself, and presented them to my mother. Like all others who saw him, she was struck with his modest deportment and pleasing address; so much was she impressed by the sparkling flow of his conversation that, during a lull, she stepped out, and calling her third son, told him to come and listen to the young man who was about to become his teacher. The little boy shied into the room and listened to him as he resumed the conversation. It left a pleasing impression upon his youthful mind, though its purport faded from his memory. That boy, as we shall see, became his life-long friend,—like Jonathan and David, they loved each other passing the love of woman.

The arrangement with Mrs. Shields was soon made. He was to teach her five children for his board and three hundred dollars, with the privilege of getting other scholars from the neighborhood, and, to him, the inestimable privilege of the use of the law library; besides this, whenever he chose, he was to have the use of horse and saddle for recreation.

The eldest son of Mrs. Shields, Thomas Rodney, was just nine months older than Prentiss. Like him, he was a Bachelor of Arts, and had just returned, with his diploma, a graduate of Transylvania University. Standing, as he did, in *loco parentis*, he thought it his duty to examine the youthful applicant as to his qualifications. He began very politely and very gently to catechise him. He had become a little rusty in his classic lore from the fact that he had, on his return from college, taken charge of the management of the plantation, and the blending of classics with making cotton was not congenial,—the classics in such case are more apt to *rust* than even the cotton. He had not proceeded far in his examination before he found himself in deep water. The catechumen, in turn, became the catechist, and the examiner at once saw that, in knowledge at least, the candidate was his superior, and, as the proverb has it, “took water.”

The engagement being settled, Prentiss took his leave, to return in a day or two to take charge of the school. I remember seeing him, as he left, how he led his horse up to the horse-block to mount, and how he rode away. True to his appointment, he returned, and was duly installed.

The school-house was a hewn-log house, chinked and daubed with cat and clay. It stood upon an adjoining ridge, about a hundred yards from the dwelling; it was the whilom overseer's house, now elevated to a school-room. I am thus particular in describing the spot because it was the first home of Prentiss in Mississippi, and from that fact,—as will be seen hereafter,—long after his body had mouldered into dust, the halo of his association threw a protecting ægis over it and saved it from desecration. In this humble log cabin he began the treadmill life of tutor.

Availing himself of the privilege of taking other scholars, he carried a letter from my mother to her neighbor, Captain Magruder, a retired sea-captain, who had appropriately named his place of retirement "Mount Ararat." The remarkable first impression Prentiss made in his interview with the old sea-captain is best given in a reminiscence from one of his most distinguished pupils of the "Rokeby School,"—Professor W. H. N. Magruder, now of Baton Rouge, Louisiana. He writes to me as follows:

"Do you remember my father? If so, you can appreciate the story of his interview with Prentiss, as he gave it to me a few moments afterwards. Everything is as plain to me now, after fifty years, as though it were yesterday. It was a damp, drizzly day. My father had a habit, when excited or interested, of walking rapidly back and forth, with his hands behind him, as he had been wont to do on the deck of his ship. It was in this act of 'walking the deck' under a good deal of excitement, but evidently pleasurable, that I found him, as I entered the hall from the rear of the house with my gun (I had just returned from hunting). When he heard my step he looked up and asked, 'Is that you, Nat?' then, turning and pointing to the lane in front, 'Do you see that lame brat riding off there?'

"I answered, 'I see a gentleman on horseback, father, but can't discover his lameness at this distance.'

"'Well,' said he, 'I've just engaged him as your teacher, and he's *the smartest man that ever entered this house*. If he's not at the head of the bar in Mississippi in ten years I shall be more deceived than I ever was in man.'

"He then told me that he had brought a note from Mrs. Shields to know if he would not join her in employing him to teach the children of both families. 'I told him'—I give his words—'that I always examined my teachers first in the classics: "Can you decline penna?"' He went

through without a mistake. As that was the limit of my classical attainments, I began to examine him in mathematics, where I am at home, and by the holy spoons' (his common and only oath), 'he replied with a question I couldn't answer myself!'"

How fully the prediction of the old sea-captain was verified proves, to use the language of Professor Magruder, that his "father was a good judge of men," and in this case he was a true prophet.

A school-boy's memory is like his slate, the sum of one day is rubbed out to make room for that of the next: here and there a scratch may occur to make a lasting impression. My recollection of my childish school days, with Mr. Prentiss as tutor, is almost a perfect blank. We little ones, of course, tried his patience day after day, but I do not remember that he ever spoke a cross word to any of us save once: he became fretted with my little sister, and he pulled her ears till she cried. With the elder scholars he had not the least trouble; they were ambitious, studious, attentive, and respectful. With them it might have been said, as was afterward said of Prentiss by a backwoods orator in a political convention, "Mr. Speaker, it isn't often you meet up with a *genus* as is a *genus*,—such a *genus* as *S. S. Prentiss*; and when you do, all you've got to do is to *hold him* level and let him run." All that Prentiss had to do with the elder scholars was to guide and direct in the race for knowledge without the use of whip or spur.

The school of "Rokeby" was made up of A. Leonard Magruder, now a distinguished physician of Macon, Georgia; his brother, Nathaniel, from whom I have already quoted, now professor at Baton Rouge; two sons and two daughters of James Dunbar, all of whom are dead except one; and five of our family, who have all passed away save one. *Hinc illæ lachrymæ.*

Being thoroughly competent, Prentiss was saved the drudgery of rehearsal for preparation, and therefore had ample time for recreation; he passed his leisure hours in miscellaneous reading, horseback exercise, and gunning. At night he devoted himself to the study of law. His chum, the eldest son, had some idea that he too would, in the future, become a lawyer, and began to study it, but the fatigues of the body and the racking cares of

the plantation were a sad hindrance to his intellectual progress. One night he was delving along on the abstruse subject while Prentiss was also reading by his side. Tom's attention was attracted by the marvellous rapidity with which Prentiss turned the pages of the book, which was the *very interesting* commentary of my Lord Coke on Lyttleton. While he, Thomas, was mastering one page, Prentiss glided over ten or twelve.

"Prentiss," he asked, "what are you doing?"

"Don't you see? I'm reading law."

"You don't pretend to say that you've been studying it, do you?"

"Suppose you try me."

With that he handed over the book,—that Book the very mention of which is apt to give a law student the back-ache. Tom began his examination on the portion that the other had so rapidly glanced over; to his utter amazement Prentiss answered the queries clearly, distinctly, and accurately. From this it appears he did not acquire a knowledge of law by intuition, as some have supposed, but by the marvellous rapidity with which he learned.

Occasionally he would ride out to patrol at night. On one of these occasions his natural exuberance of spirits, slightly stimulated, perhaps, carried him to an excess of hilarity. When they all got home and were seated in the attic chamber, Tom felt it to be his duty to give him a lecture, so he began, in a very patronizing way,—

"Prentiss, you must remember you are a teacher of youth and that your example must influence them, and I must say you were too uproarious to-night, sir."

"I should like to know, sir, what right you have to speak to me in that imperious way, sir?" retorted Prentiss.

"*I beg your pardon—*"

Just as Tom's sentence had proceeded thus far Prentiss saw the delicacy of the crisis; it would never do to hinge a quarrel on such a cause; so, quick as thought, he choked off the rest of the coming sentence.

"Oh, well, if you beg my pardon there's an end of it."

"But stop," said Tom; "I didn't mean to beg your pardon; I meant——"

"That makes no difference," chimed in Prentiss; "if you beg my pardon that's all a gentleman can ask."

This was said with such irresistible drollery that Tom's homily exploded in an uncontrollable fit of laughter. This was the only approach to a quarrel that ever occurred between Prentiss and any under that roof.

It was one of the delights of the boys to bathe in the swimming-holes of Fairchild's Creek. These "holes" were deep and narrow, but the water therein was pellucid and of very pleasant temperature. One of the swimmers was a square-built man and had a large, broad foot; strange to say, he was proud of this, always contending that the base ought to be broad enough for the superstructure. In dressing, after swimming was over, he prided himself upon being able to stand longer than any one else on one foot. He would pull on his drawers on one leg, then his pants, and then his socks, without a tremor, all the while standing on one leg as firm as an obelisk on its pedestal. Proud of the achievement, he would banter us crowd of youngsters and say, "I'll bet not one of you can do it."

"If you'll allow me to bring a goose into the ring, I'll take the bet," said Prentiss.

The wit was probably borrowed from the old Latin story of two thousand years ago, but it was so happy that we all shouted, and Tom among the rest, for he was one of those good-humored souls who enjoyed a joke, even though it might be at his own expense.

Prentiss, with three of the boys, occupied the up-stairs room at "Rokeby,"—this was their sleeping apartment as well as studio. Sometimes they were annoyed by mosquitoes,—the *cozening* insects of this southern clime,—and they resorted to a slow way to dispose of them. The ceiling was low and hipped, and they would watch the mosquito as he lit and stealthily slip up, apply the candle, and singe it to death. • It is more than probable that, like the palmicist theory of De Quincey, if the modern paint was scraped from the old ceiling, here and there could be found the smoky epitaph of many a victim to this then new process of cremation.

Prentiss's mind was ever active and inquisitive, and he liked

to probe the working of things to the very bottom, regardless of cost. As an illustration of this, I remember he once had a common silver watch. Most boys would have prized it highly, common as it was, but he one day took it all to pieces in order to study out its internal workings; he succeeded in satisfactorily exploring its mysteries, but when he came to endeavor to re-adjust its parts, it was "no go"; it sank from a *speaking* to a *dumb* watch, and was thrown away. The knowledge he thus acquired was afterwards turned to a good account, as we shall see hereafter.

He who marks the course of a genius must follow it sometimes in its erratic flights. I once asked the question of an eminent divine how it so often happened that men of talents were prone to recklessness and excess. His reply was, "Great minds are like big ships; it requires strong passions to move the one, and heavy winds to move the other." Their activity is such that they require corresponding relaxation.

The most pleasing and refining safeguard is found in the society of ladies. But Prentiss, in his early life in Mississippi, in consequence of his physical infirmity and sensitiveness on account of it, shrunk from the effect of seeking ladies' society. True, his handsome face and fascinating manners could have won his way, but he did not think so, and therefore did not seek it. He had an exalted estimate of the gentler sex; with such a mother and such sisters as he had it could not have been otherwise. But he could not *dance* attendance upon the ladies on festive occasions and scatter the airy triflings that flutter for a moment in the sunbeams of pleasure, and he was too diffident at other times to obtrude himself upon their society, therefore he was forced to seek relaxation in the society of gentlemen only.

Unfortunately, at this era card-playing was one of the venial faults of the age. It was not confined to this latitude alone, it was the habit of some of America's greatest statesmen, as well as of England's too, but it is not necessary to mention their names. It need not be disguised that in early life Prentiss became a victim to this mysterious and singular infatuation; it was not from the love of lucre, but the wild excitement of the hazard and the pleasure of exhibiting great skill in the game.

Bearing in mind the above observations, the reader will throw the mantle of extenuation over the following incident in his early career. In the prosecution of his legal studies he made it a point to attend the session of the Circuit Court at Fayette, in Jefferson County, to see and learn the routine of practice. On one of these visits, after the adjournment of the court for the day, as usual, a game of brag was proposed, and the neophyte invited "*to take a hand.*" The peculiar feature of this game is that, no matter how small the amount of the "ante,"—that is, the amount each player is required to put up at the beginning of the game,—yet thousands may be won and lost at a single sitting. Its name indicates its character, for a player with a weaker may bluff off and win from another with a stronger hand. This is done by staking a heavy sum, which the timid player is afraid to meet; he failing to do so, the bragger wins, and takes the pile upon the table. As in everything that Prentiss undertook, so here also he showed himself a master. His coolness and nerve never deserted him, while his quickness and perception of memory gave him skill.

The play progressed, and to his astonishment, when he rose from the table, he was winner to the amount of several hundred dollars. Was he elated? or did the monitor within him whisper some note of warning and reproof? The *dénouement* will best answer the question. A few days afterwards he rode into Natchez, went to the first jeweller in the city, selected the finest watch in the establishment, and paid two hundred and fifty dollars for it. He took it to "Rokeby," and, in spite of protestations, presented it to his favorite pupil, with the solemn injunction that he was never to throw a card in gambling, and upon the condition that if he did so the watch was to be forfeited. That pupil wore it forty-five years, and until he went to join his old friend in the spirit-land. To-day it is an heirloom in his family, and his initial letters engraved on the back—S. S. P. to G. B. S.—are as distinct as though cut but yesterday. The watch itself still faithfully notes the fleeting hours as they pass,—a memento of the solemn injunction and of its having been faithfully obeyed.

About three miles east of "Rokeby" there once stood a plain

wooden country church upon a spot called "Pleasant Hill." It was on the high ridge separating the waters of Fairchild from those of Cole's Creek, on what was called the old "Natchez Trace," the main track engineered by the Indians through the territory of their nation. The trace was adopted as a road by the whites, and three dead towns, like shrivelled fruit, still hang upon its line in close proximity,—"Selser Town," "Pleasant Hill," and "Union Town." The church itself rested in the fork where the road branches off from the old trace and trends to Church Hill. Having been built by the joint contributions of the Protestant denominations, it was named "Union Chapel" in commemoration of that fact. It was never *formally* consecrated, and the neighbors therefore felt at liberty to use it for moral purposes and to hold their meetings therein. The pulpit stood at the gable end, and rude benches were the substitute for pews.

At the era of which I write the gentlemen of the neighborhood conceived the idea that it would be an improvement, both morally and intellectually, to the young gentry to form a debating society, and they selected Union Chapel as the most convenient place of meeting. Joseph Dunbar, locally speaking *clarum et venerabile nomen*, was its first president, and the society was composed of the leading men of the vicinage. Saturday was its regular day of meeting. Questions were propounded at each sitting, to be discussed at the next, and speakers were appointed respectively on the affirmative and negative sides. Essayists and declaimers were also appointed. The society flourished, and during its ephemeral existence enkindled a literary spirit and mental activity.

A mile or so east of Union Chapel there then lived in the family of Mr. Thomas Hall a young teacher by the name of James Alden. He and Prentiss became members of the society, and it was in that sylvan forum that the boy orators first, in Mississippi at least, displayed their wonderful powers before their enraptured audiences.

A stirring occasion, coupled with surrounding circumstances, may of itself inspire eloquence, but it requires extraordinary intellectual power to inject with eloquence a mere abstract question

before a debating society, yet these two young men did so. At one bound they sprung to be the leaders in the mimic parliament, and, as a rule, they were generally pitted against each other. The one was brilliant, witty, sarcastic, and logical; the other was cool, clear, and elucidated his arguments like a mathematical demonstration.

The intellectual combats between these youthful gladiators filled the hearers with admiration. Captain Magruder already saw the dawn of his prediction about Prentiss, and Thomas Hall, whose name so often figures in the reminiscences of the early days of the boy teacher, became perfectly enthusiastic and formed an undying affection for him. The two Yankee school-teachers were so well matched that the battle between them was often a drawn one, but on one occasion Alden acknowledged he was beaten, and gracefully paid a glowing tribute to the victor.

The career of this young rival of Prentiss was brief. He had inherited that disease in which death, as though in mockery, assumes the hue of health, but which slowly and surely saps the vital energies, in spite of change of clime or any earthly remedy. He passed from the school-room to the bar of Opelousas, Louisiana, but before he had had an opportunity to distinguish himself he faded into death, the victim of consumption.

The old Union Chapel, redolent with the fame of Winans, Drake, Watkins, and other eminent divines, and of the early fame of Prentiss and his youthful competitor, was demolished. A new brick building, more pretentious, was reared on the spot, but that too has been utterly shattered by one of our southern tornadoes, and now stands a melancholy ruin. Pleasant Hill has lost its name, for it has ceased to merit the title. The very few lonely travellers as they now pass the place and see its desolation, can hardly realize that it was there that the youthful prodigy once electrified an enthusiastic and happy people.

Prentiss closed his "Rokeby" school in June, 1828. As I drop the curtain upon this part of his life and remember how few of the scholars are left, the plaintive song of "Ben Bolt" wells up in my memory, and a tear dims the eye:

"Do you remember the school, Ben Bolt?
The *master so kind and so true*?
The little nook, near the clear running brook,
Where we gathered the flowers as they grew?
On the *master's grave* grows the grass, Ben Bolt,
And the running little brook is now dry,
And of all the friends who were school-mates then
There remain, Ben, but you and I."

Even the clear running brook, which was a perennial stream, by the changes of time now ceases in midsummer to flow.

The leaving of "Rokeby" was to Prentiss like an exodus from a second home, for he seemed "to be one of us," and we loved him as though he were a member of the family, and he was devotedly attached to his favorite pupil. His seven months of teaching was not lost time even to himself. He had imbibed deeply and profitably from the law library. He had paid all his debts, including what he had borrowed from his noble friend, Mr. Wright. He had fifteen or twenty dollars in his pocket, and *was square with the world*.

When he left "Rokeby" he heard of a situation at St. Francisville, a then beautiful village in Louisiana, overlooking Bayou Sara on the Mississippi River,—the first being on the hills, the latter on the bottom. Prentiss made the trip down to the place on horseback—a distance of one hundred miles—in about two days; he found the vacancy had been filled ere his arrival and returned home, reaching Natchez on the 3d of July. Before he retired that night he asked Bell, the Boniface of the "Mansion House," to wake him at daylight, as he wanted to get out to "Pleasant Hill" on the 4th to hear his Transylvania friend make his maiden speech in Mississippi. Bell forgot his promise to awake Prentiss, who therefore slept till late in the day; when he awoke, however, he had his horse saddled and started, but only reached the classic ground just as his friend had finished speaking and was descending from the rostrum, and therefore could only *echo* the *post-limine* congratulations.

Prentiss was not long out of employment. He was called and took charge of a large academy at "Dunbarton," the country residence of Mrs. Martha W. Dunbar, ten miles from Natchez. This place, like "Rokeby," was a pleasant spot, at least in one

respect: it was shaded by the native trees of the forest. The owner thereof was early left a widow with a large family. Her masculine intellect imbued with extraordinary industry, prudence, and economy, carried her bravely through her trials, and she succeeded not only in educating her children, but in giving to each a good start in the world.

The room which Prentiss occupied was a cottage house in the northwest corner of the yard; it is still standing, and is now a double object of interest from the associations with which it is connected, for not only is it hallowed from its having been the room of Prentiss, but it now holds the archives of the history of Mississippi, from which Colonel J. F. H. Claiborne has there written his "Mississippi as a State and Territory."

The "Dunbarton" school-house was about three-quarters of a mile from the dwelling, on the spot a short distance from the western side of Second Creek; the dwelling being upon the other side, the creek had to be crossed in going and in returning from school. It was a clear running brook, and the crossing was easy in low water, but during freshets became a serious matter; there was no bridge, and to supply the want a large tree was cut down and fell across the stream, from bank to bank, and thus made a safe log bridge. The crossing of such a bridge, in Western parlance, is styled *coon*ing, therefore, in times of freshets, Prentiss and his scholars had to *coon* it over Second Creek.

It was at "Dunbarton" that Prentiss first met and was thrown into contact with one who was afterwards to be his distinguished political antagonist in many a field,—Colonel J. F. H. Claiborne, who, during the time that Prentiss was teaching at "Dunbarton," married a daughter of Mrs. Dunbar.

Notwithstanding all efforts to draw Prentiss out while at "Dunbarton," he lived the life of a recluse. The school was much larger and of a different type from the one at "Rokeby." There is a floating tradition that on a certain day one of the boys became unruly, that Prentiss undertook to correct him, and that a regular tussle ensued, in which the powerful arm of Prentiss was brought into full play before he could conquer him.

This school was more remunerative but far more troublesome

than the other, and Prentiss only continued there one session. Not a vestige of the old school-house remains; thick bushes and undergrowth now cover the spot, and only the song of birds now and then wakes the melody of the site where once was heard the murmur of the studying school-boy.

Prentiss saved enough from the profits of this school to enable him to cease teaching and *float* until he could be ready to make a living by his profession. Never a man more joyfully laid down the ferule of the pedagogue than he; school-teaching, while his temporary *avocation*, was not his *vocation*. To confine a brilliant genius like his down to the humdrum daily repetition of the same studies was like piping the fires from the crater of a volcano to light a street lamp. And yet, though teaching was irksome to him, he was unconsciously experiencing therefrom the benefits of the discipline which enabled him to achieve such marvellous success. Judge Bullard, in his eulogy on Prentiss, thus alludes to this:

"And here let me say to you, gentlemen, that the schoolmaster is, as it were, the chrysalis form of the great men, the eminent lawyers and statesmen of New England. Before they expand their wings and develop their full powers and energies they, for the most part, have passed through that condition,—imparting instruction, while at the same time they are drawing in those copious stores of knowledge and practising that patient and laborious system of research which renders them great in after-life.

"Need I mention names? I would rather ask, Who has not been at some period of his life a schoolmaster, from the time of John Adams down to the present day? I myself learned the first rudiments of letters from a man who afterwards became chief justice of New Hampshire, and my younger brothers were taught at one time by no less a man than the present distinguished Judge Woodbury of the Supreme Court of the United States. Prentiss passed through this severe mental ordeal, and soon emerged into active life a brilliant genius and an accomplished scholar."

That the ordeal was severe we had positive evidence. While at "Rokeby" he would have deep fits of gloom lasting for weeks. Wrapt in the solitude of his own feelings, I have known him to walk for hours, at night, back and forth upon the gallery. At such times he was treated with great tenderness, and none

sought to intrude upon his hidden sorrow. These moods can easily be explained: he was far from home in the land of strangers; although he was a master, he was yet the servant. The contrast between his home and the present abode, too, was great. There was the merry jingle of the sleigh-bells, here the mildness of summer in mid-winter; there freedom, here slavery; there the affections of life-long association, here the acquaintance of an hour; there was his doting mother and family, and who could fill their place? Besides all these mournful feelings of the soul, he was anxious to begin his true career, and not be "*cabined, cribbed, and confined*" to the humble rôle of the country pedagogue.

There was one thing, however, that helped to buoy him up, and that was what Vice-President King, of Alabama, spoke of in his farewell address to his brother senators as "that best of all blessings, good health." Prentiss seemed to luxuriate in our clime. There was one feat in which he could beat all-comers, and that was the drawing himself up by his arms, putting his chin over a limb, then letting his body drop arm's length, and repeating again and again. I have seen him do this twenty-four or five times, and he always "beat the beater." If any young reader (the old ones I know cannot) thinks this a little job just let him try it, and if he can beat the score made by Prentiss I should be pleased to hear from him.

CHAPTER III.

PRENTISS left the "Dunbarton" school after the 1st of January, 1829, and entered the law-office of Robert J. Walker as a student of law. It seems somewhat singular that these two men who were thus early linked together, in after-years should have been so radically opposed to each other.

It is needless to touch upon the character of Walker, for his reputation is already national. A comparative pigmy in size, he was a giant in intellect, subtle as Macchiavelli, ambitious as Cæsar; he rose from the bar to the Senate, from the Senate to the Treasury bench, and proved himself to be not only one of the most honest, but the most competent financier that had ever sat as Secretary. Handling millions, he came out of office as poor as he went in, and left the country in a prosperous condition. But for our civil war, it is more than probable that Mississippi might have had the honor of furnishing the President of the republic.

At the time Prentiss became his student Walker stood high in the profession, in common parlance, at the head of the bar. The candidate now had six months before him in which to prepare himself for his final examination preparatory to his obtaining license. It will be remembered that he had already studied ten months with Judge Pierce, two or three months with Wright, and some six months at "Rokeby," probably, too, some at "Dunbarton." He was still anxious to return to Maine, but with him time was so precious that he could not afford to do so. Here he could get his license in six months, there it would take him a year longer; thus, by an irresistible necessity, he was forced to locate in the South and forego his cherished hope of going home. He made good use of his brief time, but *ad interim*, about the 1st of March, he took the trip in the flat-boat with his friend, Tom Shields, who, with all his worldly goods, moved down to Terrebonne Parish, Louisiana.

The amusing incidents of that trip have already been detailed in the "Memoirs" by his brother, and need not here be repeated. Prentiss was the life and soul of that jolly crew. Like Noah, the captain had housed his all in an ark, called in our Western language a flat-boat. This craft, I believe, is peculiar to our great river. It is not exactly a floating-palace, but it is a floating-house of transportation, and, like a politician, always floats with the current. Huge side-pieces, sometimes hewn out of solid sticks of timber, three or four feet deep in the clear and from sixty to ninety feet long, form the gunwales; two of these are firmly joined together by stringers twenty or thirty feet long, according to the width of the boat, and upon them is laid the keel properly calked, and thus made impervious to water; upon the inside is laid the keelson, also water-tight. The cabin, so to speak, is from six to ten feet high, made of stout scantling, at proper distances mortised into the gunwales, and water-tight sealed to the top with planks. The roofing is oval, after the pattern of the turtle's back, made with jointed plank thin enough to bend with the curve. The inside is sealed with jointed plank. The bow and the stern, like those of the leech, are so much alike you can only tell one from the other by the adjunct of the rudder. On the hurricane-roof are fixed huge rowlocks, on whose pivots rest in equilibrium the long oars called "sweeps." One of the rowlocks is at the stern for the rudder. The sweeps and rudder are made of huge single sticks of timber, with broad flanges at the water end for paddles. The fireplaces are of brick daubed together for a hearth, and the smoke escapes "*in aere*" (this was before the day of stoves). The berths are bunks in the rear cabin. The plunder was stowed in the capacious inside. Equally broad at the bow and the stern, it was but natural that these unique crafts went by the name of "broad-horns."

It was in such a bark as this that the young emigrant started on his exodus, about the 1st of March, 1839, to the lowlands of Louisiana *via* the Mississippi River. He placed in it all his worldly goods,—his slaves, horned cattle, horses, mules, sheep, hogs, dogs, and cats; also his books and other inanimate plunder.

Prentiss was at the upper landing "under the hill" at Natchez, and got on the boat as she swung out, intending only

to go down to the lower landing, where the boat was to stop for more plunder. They soon reached this landing, took on the balance of the plunder, and, just as they were about to cast off the hawser for the final departure, the captain proposed to Prentiss to go on down the river with him. Of course he was entirely unprepared for the trip, and, as the lawyers express it, he *demurred*. Others of the cabin *passengers* joined in the entreaty.

"But," said Prentiss, "I can't go; I've got no clothes with me."

"Oh, that makes no difference," they replied; "we'll supply you with victuals, and clothes to boot."

After vehement coaxing he consented, and thus became *par excellence* the only genuine *cabin* passenger; all the others of that goodly company were *deck-hands* and had to work their passage. In this new *rôle* he proved himself, as we shall see, equal to the *emergency*.

Eddies are the terror of "broad-horns" in our great river. The current, which is as winding as a huge anaconda in motion, plunges headlong, here and there, against the banks, and reels and whirls into miniature maelstroms; these suck the unwary into them, and float them around and around for hours, if not days, — ever in motion, yet never progressing. An amusing illustration of this is told in a story of the olden times. One dark night a flat-boat was floating serenely down the river, it passed a house where the lights were brightly burning and "there was a sound of revelry by night;" the boat passed on into darkness, and, in about a half-hour, again emerged into the light of another house engaged in revelry; this did not strike the captain as at all singular, but when, finally, at every half-hour or so, he saw house after house in a blaze of festivity he mentally ejaculated, "Well, I'll be — if ever I saw such a country for frolicking in all my born days! It seems to me as though the whole people is on a bust." As the morning dawned, however, the illusion was dissolved; the poor fellow found that he had been revolving all night in the eddy, and thus the one house had been multiplied into a multitude.

In an eddy similar to this the boat of our emigrants unfortunately became involved. Hour after hour they toiled and struggled with stout hearts and strong arms; every man was ordered

to the oars, and there was "heave-o-ing" and shouting; for a while this was all in vain; affairs began to grow serious; between the wrenching of the oars and the wrenching of the current the old hulk began to creak. I said every man was at the oar, but there was one exception, and that was the *cabin* passenger. He sat upon the deck and laughed at the *antics* of the crew, he joked at the captain, he jeered the deck-hands. Half angry, half laughing, the captain implored him, "For God's sake, Prentiss, give us a lift, will you?" "No, *captng*," replied Prentiss, with mock solemnity, "I can't do it, sir; *I'm reserving myself for an emergency.*" And so he continued in the *passive voice*. At length, after a heavy struggle, the boat weathered the eddy and floated on her way into the current.

It is usual that the last battle between winter and spring in our Southern clime takes place about the middle of March, and the weather then grows, as we Southerners think, intensely cold. Such a change in the weather took place not many hours after the boat's escape from the eddy; she was tied up at the bank and the crew were hovering over the fire when suddenly arose the appalling cry of "Fire! fire! the boat's afire!" Instantly every one, in consternation, sprang to his feet; every one made a rush for the water-buckets except Prentiss. He saw the danger, and before the crowd, in their scramble, had even reached the buckets, he had tumbled over into the water and, using his *hat as a dipper*, began to pitch water into the flame; it was all done so quickly that the fire was gotten under, and even extinguished, ere the others returned. Of course every one was tremulous with excitement and delight; every one complimented Prentiss upon his presence of mind. The captain and the mate were particularly enthusiastic, for the burning that boat and the appurtenances thereunto belonging would have been to them what the destruction of the ark would have been to Noah.

Puffing and blowing from his extra exertion, draggled and wet, and ruefully looking at his now crumpled stove-pipe hat, the only reply which Prentiss made shows that he was as ready with his wit as he had been ready in the crisis. "Captng, that's what I call saving myself *for an emergency.*"

No other stirring incident marred the dull monotony of the trip. The broad-horn followed the course of the mighty stream in its meanderings till it reached the first of its many mouths, Lafourche; floating down this, they reached the little Acadian village Thibodeaux. Here they landed, and, unloading the ark, they took the overland route down the margin of the Bayou Terrebonne to the new home of the emigrant, appropriately named "Hope Farm," for the fruition was to be in the future.

This region was then settled by the Acadian French, the victims of a cold-blooded atrocity enacted by the British government after the capture of Canada in 1763. A whole people were then ruthlessly driven from their homes in that Northern clime and transplanted to the almost tropical climate of Louisiana. In spite of their misfortunes, however, their cheerfulness triumphed over adversity. The heads of the families opened up the country fronting on the bayous, and as the scions grew up around the parent stem, these latter would parcel out the farms in strips from the front, so many *arpent* front, running back to the swamp. Luckily for the exiles, the soil was the richest alluvium that the sun ever shone upon, all that they had to do "was to tickle the earth and it would laugh" with plenty. It was the land of the sweet cane and the orange. The people were primitive and had but little education, their orbit was circumscribed to the limits of their household,—“the world forgetting, and by the world forgot.” I have seen an ordinary steamboat “poster” (bill), with the usual wood-cut picture of the boat, carefully hung up to adorn the walls of a cottage, and, doubtless, as highly prized by the owners thereof as a work of art would be by others. Happy Acadians! your homes in Canada were, as they are in Louisiana, sequestered; there in a harsher, here in a softer, more poetic sense.

Among this unique people Prentiss lingered for a few days and made his observations. They presented a new phase of society to him, and probably the like of it will never be seen again. The railroad has penetrated the wilderness of swamp, bayou, lake, and lagoon. The simple Acadians have become absorbed in the great American progress, but their kindness, simplicity, and gayety still glints out whenever they are met.

The boarding of Prentiss at the "Hope Farm" was of the clap-boarding order,—it was exteriorly and interiorly rough; one room was for bed and board and parlor. There is a dim tradition that the boys had to be awakened so that the cook might get the *table-cloth*; this led to an investigation, and it was discovered that the "*sheet*" by night was the "*table-cloth*" by day! I can't say whether or not the disgust was cured by the *fun* of the thing, but doubt it.

After lingering for a few days in this novel social atmosphere, Prentiss took leave of "Hope Farm," and, going up the Lafourche to the Mississippi River, he went down to New Orleans. As he landed there and saw the multitude of ships, he naturally remembered the place of his childhood,—Portland. After landing and refreshing himself, he went in search of some vessels from that place; but his search was vain: there was not a single ship of any kind hailing from that port, and Prentiss was grievously disappointed.

His first impressions of New Orleans took the hue from his sombre reflections; he was a lone stranger in the land of strangers, and there is no solitude deeper than that of being alone in a *wilderness* of humanity. He only remained here a few days, and once more bent his journey to his new home, but this time in a steamboat.

Refreshed by his little trip, as soon as he reached home he resumed his studies with his accustomed ardor. He had now but three months left in which to complete his preparation. Knowing, as we do, his wonderful power of concentration, we presume he condensed his studies of the previous years into those three months.

About the 13th of June, 1829, he started to the pretty little village of Monticello, that lies about one hundred miles east of Natchez, on the banks of Pearl River. Candidates for license to practise law had to be examined at that era before the judges of the Supreme Court while in session. That court was now in session. The examination was no child's play, and we have heard of old practitioners, veterans at the bar from other States, being cast and rejected. In two days Prentiss reached the village, and at the same time there flocked in several other candi-

dates, whose names we give. There was his old chum, S. S. Boyd (like the twin stars, Castor and Pollux, their destined orbit always seemed the same); Preston W. Farrar, afterwards State senator from Wilkinson County, who subsequently moved to New Orleans, became a member of the Louisiana Legislature and a prominent member of the New Orleans bar; William C. Harris, who afterward became district attorney, but soon retired from practice and settled on a plantation; Major Gibson, who afterward moved to Warren County, Mississippi; Cyrus W. Buckner, a brother of Chancellor Robert H. Buckner; and a Mr. Bunning, who settled in East Mississippi.

Chancellor Buckner was appointed examiner by the court, and a more thorough one could not have been selected; he was a Rhadamanthus in exactitude, and woe be to him who fell into his hands unprepared. I was told, by one who was present, that the candidates passed creditable examinations. He was deeply interested in three of the young men, and described the scene to me as follows:

"Boyd sat with his legs crossed, perfectly self-possessed. When a question was asked he would glance his eye up at the querist and answer briefly, distinctly, and right to the point. Prentiss answered correctly, but amplified and philosophied as he answered. W. C. Harris made no pretension, but went straight to the mark. Boyd, critically speaking, stood the best examination."

The whole class passed, and were duly sworn in as attorneys and counsellors-at-law of the State of Mississippi.

The reader by comparing dates will perceive that Prentiss was yet, in the eye of the law at least, *an infant*,—he was not yet twenty-one years of age; but we shall soon see that he was in truth what "Mr. Vincent Crummles" calls "*an infant phenomenon*."

He returned to Natchez, and by letter to his elder brother announced the glad tidings of his safe passage over the breakers; he writes:

"I am now a lawyer, but how I shall succeed is a doubtful question. The prospect, I confess, is rather dull, even here the profession being very much crowded; however, if I can make out to get a start I have no doubt I shall ultimately succeed."

It will be seen from the above that doubt cast its sombre shadow over his mind. It is such foreboding that flits across the mind of every young candidate for practice as he stands at the threshold of his professional career. He has to pass through the weary hours of watching and waiting; he has to read and read and re-read till his mind becomes *saturated* with law, and still no chance to *squeeze* it out; his soul becomes filled with anxiety and his heart grows faint with "hopes deferred."

Luckily for Prentiss, he did not have to wait long for an opportunity, and with him *opportunity meant success*. General Felix Huston, a distinguished member of the bar, was attracted by the youth and soon became his friend. He proposed a partnership; this was immediately accepted, and Prentiss was therefore at once placed above the pressing anxiety of how he was to support himself *ad interim*. He felt safe in thus having secured a competency, at least for the present. He occupied as his room and office the brick building on the eastern side of Pearl Street, south of Main, just in front of the vegetable market, and now the residence of E. B. Baker.

There is a tradition, for which I shall not vouch, but will tell it as told to me, that Huston remarked when he took Prentiss into partnership he thought he was getting a boy who would *help* him now and then in the drudgery of the practice, but that he soon found Prentiss was the leader and he the assistant.

It is not often that a young lawyer's first cases are remembered, but it might be said of this wonderful man what Johnson said of Goldsmith, "*Nihil quod tetigit non ornavit.*" And so the very first case in which Prentiss appeared is recollected. It was an affair of burglary, and rested entirely upon circumstantial evidence. Under the window of the house which was broken open was found an old shoe. One shoe-track and one barefoot-track was traced to a house under the hill, in this house the prisoner was found with one shoe on which matched the one found under the window. Prentiss prosecuted the man and convicted him. The culprit was so struck with the oratory of the prosecutor that he remarked, when the trial was over, "If an angel of light were tried and that man were the prosecutor he would convict him."

The other case was one in which the plaintiff brought suit against the defendant for the value of a horse that the defendant had killed under peculiar circumstances, which palliated, though it did not quite justify, the act. Prentiss for the defendant, in legal parlance, demurred to the declaration; that was an admission of the facts as stated, but a denial of any legal obligation resulting from the facts. A young friend of Prentiss's told me that he knew Prentiss was going to make an argument and that it would be worth hearing, therefore he lingered around the court-house, in expectancy, for several hours. At last the case was called, and he never in his life heard so brilliant a speech. Prentiss brought into play, in rapid succession, ridicule, pathos, and satire; he alternately convulsed the court and by-standers with laughter, and then moved them to tears. The result was the demurrer was sustained, and the case stands on the record to-day as dismissed.

Succeeding juvenile members of the Natchez bar, when they wished something spicy to amuse themselves, used to con over that demurrer as the highest type of legal wit. Now, while it is true that the forensic efforts of a lawyer are usually confined to the precincts of the court-room, yet such was the peculiarity of the style of Prentiss that he almost immediately rose to distinction; every one began to speak of him as a prodigy, and so his fame grew and waxed strong.

When he was admitted to the Natchez bar, to use his own expression, "the profession was very much crowded." My elder readers will recognize some of the distinguished names as I give the roll,—John Antony Quitman, John T. McMurren, Aylette Buckner, Eli and Felix Huston, Covington Rawlings, Thomas Armat, George Winchester, Robert H. Adams, Alexander Montgomery. Well might the neophyte feel some trepidation in entering the list against such an array of talent, but he felt so conscious of his powers that he knew he could sustain himself if he could only have the opportunity; subsequent events proved that he was not mistaken.

It matters not how profound a lawyer may be in the theory of the laws, the routine of practice can only be acquired by experience; therefore is it of inestimable value to a novice to

be associated with a veteran who will point out the minutiae. The old practitioner is to him what the demonstrator of anatomy in the dissecting-room is to the young medical student. The first year, therefore, of Prentiss's novitiate with General Huston was of vast importance to him.

On the 11th of July, 1830, he renewed his partnership with Huston, but on far better terms: he was to have one-third of the profits. This contract fixed his destiny as a citizen of the South. The hopes of returning to his native home gradually faded away, and finally, like so many of our earthly hopes, was buried forever. To give some idea of how little emigration there was at that time from the State of Maine to this country, we note that up to this date Prentiss had met with but one former acquaintance here, and that was S. S. Boyd.

During the summer vacation of this year Prentiss spent a portion of his time at the whilom semi-capital of Mississippi, Columbia,—at one time our seat of government was ambulating and swung like a pendulum from Natchez to that place. It was a healthy spot, redolent of rosin and perfumed with the fragrance of vast forests of pine.

At that time he became acquainted with the mother-in-law of Huston, Mrs. Dangerfield, who lived at "Coventry" (so was her residence called), within a mile of the village of Washington. She was to him a second mother, and he became devotedly attached to her, so much so that, in writing home, he sent word to his mother not to be uneasy concerning him, for, should he be ill, this kind lady would take as good care of him as she herself.

After his return from Columbia, he spent a part of the summer months in *dolce far niente* style at "Coventry,"—riding about and gunning; there was no good fishing in the neighborhood, therefore he had to forego that, his favorite sport. One of his chief amusements was pistol-shooting. This was the fashion, or rather passion, of the young men of his day, just as rifle-teaming is the passion of our day. Tons of powder and lead were thus wasted, and fortunes were lost in practising. The idea was to be always ready for the *chances* and changes of this Southern life. Huston himself was a devotee and a splendid shot, both with the rifle and the pistol. The custom was to

practise "firing at the word." A tape-line, the height of a man, was stretched upon an upright pole or tree for the target. The marksman would take his position about ten or twelve paces in front of the mark, with his loaded pistol in his right hand down by his side. The man who was to give the word would then call out emphatically, but slowly, "Gentlemen, are you ready? —Fire—one—two—three—stop!" The rule was to fire between "one" and "stop." Prentiss was gifted with a nerve of iron, and was an unerring shot: he rarely failed to cut the tape.

On one of these "practising occasions" a very painful incident occurred. He had just bought a brace of pistols, and was testing their accuracy; before loading he usually snapped a cap to clear the tube of its obstruction. Huston was lolling on the grass near him. Prentiss snapped the percussion-cap as usual, when, to his infinite distress, he saw Huston clap his hand to his eye and cry out in an agony of pain,—a fragment of the copper from the cap had penetrated his eye. He suffered excruciating pain for a while, but it subsided in the course of time. The wound healed over, but the vision of the eye was never recovered. Huston saw that it was entirely accidental, and had too much magnanimity to reproach his friend; knowing how deeply distressed Prentiss was, he studiously avoided ever alluding to the accident. Once, and once only, it was painfully, though unintentionally, brought to mind. Huston, who was to argue a case, came into the office the day before the case was to come off to search for an authority he knew was in point; the lights were dim and he could not find it; losing his patience, he threw down the book, exclaiming, with the usual expletive, as he did so, "I believe I'm going blind; I can't find anything!"

During all this period Prentiss was, so to speak, a voracious reader, and devoured the current literature of the day. The literary sky was still blazing with stars of the first magnitude. Bulwer, in rapid succession, threw off his brilliant novels; G. P. R. James was draping history in the garb of fiction; Scott was still charming the world, and puzzling them as to whether he was best entitled to the laurel as a novelist or as a poet; Moore was still scattering his melodies; Campbell was

mute, it is said, only because he was afraid of the shadow of his own reputation; Byron had sunk beneath the sun at Missolonghi, but the echo of his harp still vibrated through the world.

Of the poets, Shakspeare, Campbell, Scott, and Byron were Prentiss's favorites, and he could rehearse them, I might almost say, by the volume, and in rehearsing from them he could thrill any one. His contemporary licentiate, W. C. Harris, who did not profess to have the least bit of poetry in his composition, once told me that Prentiss never failed to melt him to tears as he repeated the "Sailor Boy's Dream."

"In slumbers of midnight the sailor boy lay,
His hammock swung loose at the play of the wind,
But, watch-worn and weary, his cares flew away,
And visions of happiness danced o'er his mind.

"He dreamed of his home, of his dear native bowers,
And pleasures that waited on life's merry morn,
While memory each scene gayly covered with flowers
And restored every rose, but secreted the thorn.

* * * * *

"Oh, sailor boy! woe to thy dream of delight!
In darkness dissolves the gay frost-work of bliss;
Where now is the picture that Fancy touched bright,
Thy parent's fond pressure, and love's honeyed kiss?

"Oh, sailor boy! sailor boy! never again
Shall home, love, or kindred thy wishes repay;
Unblessed and unhonored, down deep in the main,
Full many a score fathom, thy frame shall decay.

* * * * *

"Days, months, years, and ages shall circle away,
And still the vast waters above thee shall roll;
Earth loses thy pattern forever and aye;
Oh, sailor boy! sailor boy! peace to thy soul!"

I myself, though but a boy at the time, remember being thrilled by his rendering of the night scene of "Alf the Renegade" in the "Siege of Corinth":

"And he saw the lean dogs beneath the wall
Hold o'er the dead their carnival.
Gorging and growling o'er carcass and limb,
They were too busy to bark at him.

From a Tartar's skull they had stripped the flesh
As ye pull the fig when the fruit is fresh ;
And their white tusks crunched o'er the whiter skull
As it slipped through the jaws when their edge grew dull,
As they lazily mumbled the bones of the dead.

"So well had they broken a lingering fast
With those who had fallen for that night's repast."

As Prentiss's deep guttural tones threw expression into the theme I could almost *see* the horrible banquet. He seemed always able to touch the diapason that vibrated through the soul. Byron was his chief favorite; in fact, the cast of his genius was not unlike that of the poet's: the same brilliant imagination, the same capacious memory, the same exquisite diction, the same classic culture; if we add to this a similar physical infirmity, the likeness is still more complete; this misfortune warped Byron into misanthropy and colored the life of Prentiss with a faint tinge of jocular cynicism. There is not the least doubt but that, if he had devoted himself to the Muses instead of throwing his genius on to the Hustings, he might have rivalled his great idol; but, alas for his fame, he flung his glittering thoughts broadcast among the multitude and they have sunk into oblivion.

Inasmuch as Huston had an extensive practice, Prentiss realized enough to be independent, and, had he been of a selfish disposition, he might have been content with a moderate income, and would have probably remained in Natchez; but, after the death of his father, he ever thought it a solemn responsibility to help support his family and, above all, educate the younger children.

He did not profess to be pious and only occasionally attended church, sometimes the Presbyterian and sometimes the Episcopal. He acknowledged a deep veneration for the preachers of religion and always showed a reverence for the ministers of the gospel, but he could not comprehend or appreciate the differences of faith between the various sects.

Impelled by a noble self-devotion to his great life-work, he determined to cast about for a more prolific field. At one time he thought of settling in Port Gibson, a town about forty-five

miles northeast of Natchez, but on mature deliberation he selected the then young town of Vicksburg.

During his brief career in Natchez he formed the deepest and most lasting attachments of his life. The members of the bar, old and young, had not only conceived a high estimate of his talents, but had formed a personal attachment for the man. His intercourse with them was marked by professional courtesy, and in the social circle he was the light of the company.

CHAPTER IV.

PRENTISS took his final leave of Natchez as a place of residence, and arrived in Vicksburg about the 1st of February, 1832. The Vicksburg bar was then, as it has ever been, distinguished for its great ability. W. L. Sharkey, John I. Guion, W. C. Smedes, T. A. Marshall, J. Harrison, Joe Holt, J. M. Chilton, W. F. Bodley, A. G. McNutt, H. S. Foote, were some of its members who achieved great reputations. Through this array of talent Prentiss had to make his way. His reputation had already preceded him, and his arrival is beautifully described by his contemporary, John M. Chilton.

The very first case in which he was employed attracted a great deal of attention from its novelty as well as its public interest. The smallpox had broken out in a large hotel, which stood alone in one of the squares of the town. Moved by a desire to confine the disease and prevent its spread, the city authorities had by an ordinance quarantined, or rather embargoed, the building. Prentiss was employed to enjoin the enforcement of the order and have it repealed. This was a theme well suited to the cast of his mind; on it he could bring to bear his logical power, blended with wit, sarcasm, and pathos.

Although not a note is left of what he said on the occasion, yet, from the meagre description given, we can imagine how clearly he dissected the powers of corporations and showed their want of authority in the charter; how pathetically he appealed to the humanity of the board: could they, or would they, like the heartless priest or the hypocritical Levite, turn aside from the sick stranger and leave him to die? or, worse than that, bar him within the doors of the contagion, and let him die like a rat smothered in a hole? Would they not rather imitate the good Samaritan, help the stranger in his sickness, soothe him in his distress, and, if possible, save and restore him to health?

The embargo was an outrage on our humanity, a disgrace to the age, and contrary to the teachings of Christianity, etc. It is said that he spoke for two hours. Knowing, as we do, how hard it is to move men to revoke an order which they have deliberately adopted ; knowing, too, what a panic is created in a little town by the presence of a contagious disease, and how clamorous the people are for quarantine, it is a wonder that the young lawyer succeeded at all, but the result was a triumph, the obnoxious ordinance was repealed.

This remarkable speech for one so young at once enhanced his reputation, and his star began its upward ascent. It was not long ere he stepped into a large practice and assumed his position in the front rank of the profession. While his forte was in criminal cases, he was equally at home in the dryer matters of civil causes and the more pliable principles of courts of equity.

The old court-house was a square brick building, standing upon the lofty eminence where the present court-house now stands ; this latter is a beautiful airy structure, and is the first object which strikes the traveller as he approaches Vicksburg by the river ; but whenever the men of the days of Prentiss visit the spot their memory goes back to the days of the old square brick court-house that so often resounded to the tones of his eloquence.

In the arena Foote was often pitted against him, but, by common opinion, his most formidable opponent was Joseph Holt. Never, perhaps, were there two great men more dissimilar in manners, tastes, and habits ; the one, as we have seen, was jovial, genial, and sparkling ; the other was quiet, retired, and reticent ; the one was bold, brilliant, and dashing in his arguments ; the other spoke with a polished beauty and power,—of him it could always be said *semper paratus*. He was called the “Demosthenes of the bar,” because his arguments were thoroughly prepared orations. Only a few days since I heard an octogenarian say that Holt was the most beautiful speaker to whom he ever listened, and I have often been told that it was an intellectual treat to hear the arguments of these two remarkable men in some of their great cases.

About this epoch there was roaming through the river counties a noted freebooter, whose pseudonyme was "Phelps." He too was a Yankee, was educated and well connected, but lapsed from the Puritan into the Robber; he was of undaunted courage, and

"Left a corsair's name to other times,
Linked to one virtue and a thousand crimes."

Strange to say, he never had a confederate, but "went it on his own hook." The fate of the robber Mason may have been a warning to him; for Mason was betrayed and tomahawked by one of his own gang.

Phelps only killed in cases of necessity; he was not altogether cruel, as the following rather *whimsical* incident will show. A Rev. Mr. Cotton, of the Methodist Church, and his father-in-law, Mr. Folks, were returning from a religious meeting at Mount Carmel, in Franklin County; as they were leisurely journeying along, they saw a man run across the road and make his way through the surrounding woods. The Rev. Cotton, impelled by curiosity alone, wished to find out what the fellow meant by this strange manœuvre, and trotted after him; it was not long before he overtook him, for Phelps was perfectly cool and had no idea of running. Any one can imagine how utterly dumfounded the pursuer was when the other stood with his rifle cocked in "present arms" position, and gave the imperious order, "Stand and deliver."

The preacher, as soon as he could collect his thoughts, replied in just such a way as a man in his vocation would do: "My dear sir, I've got nothing in the world; I'm nothing but a poor Methodist preacher."

Unfortunately for Mr. Cotton, it was the fashion of that day for gentlemen to wear enormous seals and watch-chains suspended from their fobs, and he was in the fashion. The quick eye of the robber fastened on that watch-seal. "I see, sir, you sport a watch; will you please to hand her over?"

Old Mr. Cotton being unwilling to knock his faithful time-piece out of joint, began to fix it to his umbrella in order to "let it down easy."

Phelps grew impatient. "Throw it down, you d—d old fool," said he.

"I can't; I might break it," replied Cotton.

"That's my lookout, not yours, sir." And so, to use a cant phrase, the divine "*cottoned up*."

Before they parted, however, the robber gave his pious victim a homily on the ill effects of "curiosity." "This, sir, will teach you a lesson. Remember, whenever you wish to follow a stranger hereafter, in the manner you have followed me, first make sure that he is not a robber; for if you do not make sure of it, you may have to pay more dearly for your temerity than by the loss of a watch. Now go, sir." And so they parted.

Of course the daring robbery was noised abroad all through the hill country, and created great excitement. Phelps disappeared from the vicinity and emerged in Yazoo County, about one hundred miles above Natchez. According to his code, *necessity for subsistence* forced him to take the life of his victim in cold blood. The indignation of the whole community was aroused, the murderer was pursued and captured. He was brought to trial in the old court-house in Vicksburg.

Prentiss was employed to prosecute. This is one of the very few cases in which he appeared to prosecute a criminal for a capital offence. He was opposed to doing so. It is probable that in such cases he was afraid of his own powers, lest his zeal might cause the conviction of some innocent man; he did not like either to take "blood-money,"—that is, to receive pay for helping to have a man hanged. But in this case the atrocity of the blood-thirsty villain's act justified his course. General Foote was counsel for the defence, thus the two famous champions stood antagonists.

It was a case of purely circumstantial evidence. The murderer was identified as being seen near the spot of the tragedy, etc. The conclusive circumstance, however, that fastened the guilt upon him was, that close by the body of the dead man was found the wadding of the gun; this wadding was a piece of newspaper, which, upon being smoothed out, to a jot fitted into a torn place in a newspaper found in Phelps's pocket. While Prentiss, with masterly hand, was unfolding link by link the

chain of testimony which fastened the act upon the prisoner, he sat glaring upon the speaker like a tiger ready to make his spring.

Phelps was convicted and sentenced to be hung. The subsequent part of his brief remaining career has a tinge of romance. He actually sent for Prentiss and unbosomed himself; he told him of his early life and of his fall, and that he had taken an assumed name, and would never let his family know of his tragic end. He told Prentiss that while he was speaking in the case he intended at one time to spring upon him, crush him, and escape in the *mêlée*. Prentiss replied to all this, "I saw it all, and was ready for you."

Phelps afterward broke jail and was pursued, but had to be shot before he would surrender, preferring, as he said, to die by the bullet than the rope; but in this he was disappointed: he was wounded, captured, and on the appointed day expiated his crimes upon the gallows.

The case of Byrd v. State was also one of great note in its day, and Prentiss prosecuted the prisoner. The circumstances were in substance about as follows: A Mr. Joel Cameron, a planting partner of A. G. McNutt, on a plantation a few miles back of Vicksburg, mysteriously and suddenly disappeared. Search was made; a pond on the premises was dragged and the body found, bearing evident marks of having been murdered. Suspicion fell upon his slaves, and one of them, named Daniel, was tried and convicted. Byrd was a free person of color, and suspicion falling upon him, he was searched, and the watch of Cameron was found upon his person. It was known that Cameron had on the watch the day he disappeared.

Acting on the grounds of circumstantial evidence, Byrd was indicted by the grand jury at the February term of the Circuit Court of Warren County, 1833, as accessory to the murder. Both of the regular terms following, May and November, failed. An act of the Legislature authorizing the holding of a term in February, 1834, Byrd's counsel here moved for his discharge on the ground that four stated and one special term had passed and he had not been tried. This motion was overruled; he was tried and convicted. He took an appeal to the High Court, and

in its first opinion the judgment below was affirmed ; but on re-argument it was reversed, on the ground that one of the jurors was neither a freeholder nor householder as required by the statute.

The venue on the new trial was changed to Hinds County. He was again convicted, and took an appeal to the July term, 1835, of the High Court. Among other grounds claimed for a new trial was, that during its progress in the Circuit Court the district attorney stated that he was willing to withdraw from the prosecution and leave the management of it to Mr. Prentiss, which the court permitted him to do, against the objection of the prisoner. The High Court overruled all the prisoner's exceptions, the judgment was affirmed, and he was condemned. Before he was executed he made a full confession implicating others, but this was suppressed. He was hung at Raymond. He was defended with great zeal by General Foote against Messrs. Coulter and Warren.

Colonel D. S. Pattison, of Claiborne, has just written to me, "That some time after this he heard Mr. Prentiss say, in Clinton, in a conversation with some gentlemen, ' that he, Prentiss, would never prosecute (for a capital offence) another man ;' nor do I think," continues Pattison, " he ever did while in Mississippi." He spoke also of money made in that way as blood-money. Of course " he did not refer to district attorneys whose duties are to attend such causes, or causes where attorneys are employed by the State to prosecute."

Leaving for a moment the narrative of Prentiss's legal career, we shall now pass, for a while, to view him in another arena.

Politics is the great maelstrom into whose vortex has been drawn the living talent of our republican country, and many a broken spar lies stranded on the beach to tell of the wrecks gone down in its yeasty billows. To drop the figure : whenever a young man of that epoch evinced any forensic ability the political party to which he belonged seized and dragooned him into service. There is something so irresistibly fascinating in the applause of the people, something so charming in the success of one's own eloquence, that the victim becomes a willing sacrifice, and, though he knows that it will lead to his ruin, he glories in his self-immolation.

Of course such a man as Prentiss could not long steer clear of the whirlpool. About the time of his appearance the names of the old national parties, "Federal" and "Republican," had died out, and new party organizations had been constructed from their ruins. They may be classed under three general heads, the "Democratic," the "Whig," and the "States' Rights" parties. The first was of the Jeffersonian school, and courted the will of the people as supreme. The second, whose name was transmitted from the hills of Scotland to our patriotic ancestors of the Revolution, were accused of being mere Federalists in disguise, inasmuch as they believed in a broad, liberal construction of the Constitution of the United States. The third believed in a strict construction of that instrument, and boldly asserted that the States, as the creators of it, were its superiors, and therefore sovereign. These distinct cardinal principles of the three parties entered into and became a part of the matters discussed in the great questions of the day: the constitutionality of the Bank of the United States; the question of internal improvement by the general government; the question of a tariff for the protection of domestic manufactures, etc.

President Jackson, the head of the Democratic party at this time, was its idol; he had done enough to justify his becoming the idol of the people; for, in brief, he had saved his section from the tomahawk of the savage, and his country from the bayonet of the British. Mississippi was overwhelmingly Democratic; there was, however, in the State a small body of intellectual leaders, who, while they conceded to General Jackson his full meed of glory as a military hero, demurred to his capacity as a statesman and civilian. These few preferred the statesmanship of John Quincy Adams, and afterwards followed the lead of Jackson's great rival, Henry Clay.

The political principles of a youth are generally inherited from his ancestry, and Prentiss was no exception to the rule. He was a Whig by inheritance, and his early convictions were ground into him by the precepts of his strong-minded, intelligent uncle, Lewis, who had been a bitter opponent of Jefferson's administration. Prentiss was a pronounced man in his

convictions, and, of course, it soon became known how he stood politically ; accordingly, not long after he had located in Vicksburg, he was called upon to lead, as it were, the "forlorn hope" of the Whig party.

The account of his first speech on the national topic is detailed by John M. Chilton in the "Memoirs." He knew it would be folly to attack the old war veteran, so he flanked that battery, and criticised Van Buren, who was to be the successor of the old hero :

"Look at General Jackson's influence over this people ! See him transferring his power

'To Albany, with feeble hand receiving
Borrowed truncheon of command !'

Is it not a virtual violation of our Constitution thus to transfer the appointing and elective power from the people to one man, and that man at once their idol and their despot ? Beware of such unbounded executive influence ; beware, lest it utterly prostrate the co-ordinate department of the government ! See how a noble cabinet has been shattered ! One of their number refuses to allow his family to associate with that of another, as he had a perfect right to do ; and, lo ! he is dismissed, and a unit cabinet is substituted, and that unit is Martin Van Buren. Thus, while the stately and gallant vessels, which braved the battle and the storm, have been wholly wrecked, the cockle-boat of Martin Van Buren has risen cork-like securely above the waves and floated safely into Democratic favor. But they say that *he*, while minister to England, *settled* the question of Great Britain's right of search. This is news to history. *I thought* this question had been settled years ago by the war of 1812, and that even the American sailor boy, seated at the mast-head, if asked by a Briton whether such right existed, would point to the cannon's mouth, and say, indignantly, 'Go, take your answer thence.' "

This was received amid bursts of applause, Democrats joining in as heartily as Whigs.

General Jackson was, however, as is well known, re-elected for a second term. His administration was a boisterous one, in a financial sense, in consequence of his destruction of the United States Bank. The seeds of the storm were sown, and although Van Buren succeeded him one term, he reaped the cyclone of 1840. Prentiss, as we shall see farther on, was one of the most conspicuous actors in the drama ; however, we need not anticipate the narrative.

We shall now turn to the *role* he played in the more subordinate sphere of State politics. Just at this time there loomed up in Mississippi a subject of vast magnitude,—the ordaining of a new constitution. The old constitution of 1817 did not suit the progressive spirit of the people. It was modelled after the old constitution of Virginia. It was a *real*, in contradistinction to a *personal*, constitution. It required electors to pay taxes; representatives to the lower house to own one hundred and fifty acres of land, or interest in real estate to five hundred dollars' value; senators to own three hundred acres, or one thousand dollars' value in real estate; the governor to own six hundred acres, or two thousand dollars' value in real estate. All officers, except some enumerated, were appointed by joint vote of both houses. Judges held office during good behavior. The only elective offices were governor, lieutenant-governor, and members of the upper and lower houses of the Legislature. From the above brief synopsis of some of its features, it will be seen that the old constitution was behind the age.

The canvass of the candidates for the convention to frame the new constitution was now going on. On this vital matter there were, of course, two parties, irrespective of their opinions on national questions. The progressive was in favor of giving the people the largest liberty in their governmental affairs, making the government as near to a pure democracy as possible. This party was in favor of electing all officers, from governor down to constable, from supreme judge down to justice of the peace. They were also in favor of abolishing all property qualifications for office. The other party was more conservative, and while they were willing to amend the constitution in some particulars, they were utterly opposed to an elective judiciary.

In the midst of the conflict that was then raging through the State, Prentiss happened to be in attendance upon court at Princeton, the then county-seat of the large county of Washington, situated on the Mississippi River. His views had been freely ventilated among his friends. General Foote too was at Princeton; it was known that he belonged to the ranks of the progressive party. Inasmuch as there was present a goodly assemblage of citizens, a debate was improvised, and these two

antagonists, Foote and Prentiss, met for the first time on the hustings. Here again is it to be regretted that there is no full report left of this debate.

Captain Jas. S. Johnston, now of Church Hill, Jefferson County, then a young lawyer, has given me his impressions, which are, however, now but faintly remembered. The value of Captain Johnston's opinion is enhanced from the fact that he was a thoroughly-posted politician of the straitest sect of the school of "States' Rights." Like all Virginians, he swore by the resolutions of '98-'99, which are, in their politics, what the Bible is to Christians and the Koran is to the Mohammedans. Not only had he heard, but studied also, all the arguments of the great men of Virginia on this very subject of the true principles upon which a government should be organized, and yet, with all this pre-existing knowledge and light in his own mind, he says that when Prentiss was speaking he was perfectly entranced by the magnificence of his argument in favor of conservatism, especially of an independent judiciary. New arguments, new ideas, new tropes, new figures, fell from his lips and dazzled as they fell, but in the midst of all this pyrotechnic display his logic always kept his argument in full view to the front. He got away from his competitor, he eclipsed, he demolished him. Captain Johnston, who often heard Prentiss afterward, thinks this Princeton speech one of the greatest efforts of his life; but, alas! there is no spot upon which to erect even the epitaph of *Illium fuit*,—the remorseless maw of the Mississippi has long since swallowed up the site, and even the name of the little village has been erased from the family record of the State of Mississippi. In spite of the most strenuous efforts of the conservatives, the progressives carried the election and revolutionized the constitution.

There is a tradition that some of the conservatives, seeing themselves in the minority, determined to support some of the most radical changes in the hope and expectation that the new constitution would necessarily have to be submitted to the people; they would then go before them and defeat the instrument *in toto*. The majority were too many to allow this, and, after three several efforts to carry it, the proposition to submit it to the people for ratification was voted down. It is a singular fact that

the *date* of its ratification nowhere appears on the face of the constitution. We shall *hereafter* see how profoundly Prentiss was impressed with the necessity of its vindication, how nobly he struggled to preserve it when it was ruthlessly trampled under foot in the house of its creators and friends.

CHAPTER V.

EVERY clime, I believe, has its peculiar local scourge. The Alps have the goitre; the northern climes, consumption; the South, the scourge of the tropics; but there is one epidemic disease which is cosmopolitan, and leaps from city to city, all over the world, irrespective of clime or season, and that fell disease is—cholera. The young city of Vicksburg did not escape. In 1832, Prentiss writes that it had swept over the place. He had stood in the midst of it a monument of perfect health, but the scenes he witnessed were terrible. The chief horror was its suddenness, as he says he had seen men walking about the streets, apparently in perfect health, and in four or five hours they were dead. The panic was awful, and people fled in wild precipitation from the doomed city. The rumble of the dead-cart took the place of the rattling car, and a deathly solitude reigned instead of the hum of the once busy multitude. This was the effect in the largest cities as well as in the smaller villages. I once heard the Rev. Dr. Hawks describing an epidemic of cholera in New York. He said that he once stood upon the front steps of his church on Broadway at noon, and, upon looking up and down the street, he only saw some ten or twelve people. The city seemed to be hushed into the stillness of the cemetery. It was raging in New Orleans while it was desolating Vicksburg.

The cholera in one respect is, fortunately, like a whirlwind; it makes no long tarrying, and therefore, for lack of food, it rapidly passed over the little town. Health once more returned, but a hundred new-made graves told the sad story of the havoc it had made in human life. Death was not the only disastrous effect of this epidemic: here and there a commercial house fell before the storm, and the business of the people was sadly crippled. A contemporary says that at such times Prentiss was

active in giving relief to the distressed, and his countenance was like a ray of sunshine to the desponding.

As yet the young lawyer had no partner in law in Vicksburg. Although he had not yet realized the extraordinary success which he subsequently achieved, still he accomplished enough to satisfy his young ambition. He had work on hand, and was at least self-supporting. Young as he was, he was the recipient of what we conceive to be a distinguished honor,—he was employed to conduct a cause before the Supreme Court of the United States. He accordingly went on to Washington City, and was admitted to practice in that court at the January term, 1833.

His first appearance before that court was in the case of *Sampeyreac & Stewart v. United States*. It seems that this Sampeyreac, under the act of Congress, 24th May, 1824, “enabling the claimants of land within the limits of the State of Missouri and Territory of Arkansas to institute proceedings to try the validity of their title,” filed his bill *v. United States* in the Superior Court of Arkansas on the 21st of November, 1827. In this he stated that, being an inhabitant of Louisiana, he, on the 6th of October, 1789, addressed a letter to the then governor of Louisiana asking for ten arpents of land fronting on Strawberry Creek, etc.; that the governor did order a survey upon said petition, which would have been completed into good title, etc., had not the sovereignty been transferred to the United States; it was, therefore, protected by the French-American treaty of 1803. On this petition the United States was cited. The district attorney denied the allegation, and alleged that Sampeyreac was a fiction, or a foreigner, and then dead. On the 19th of December, 1827, the district attorney moved a continuance for various reasons, but the court overruled the motion, tried the cause, and, upon the deposition of one John Heberard, entered a decree against the United States for the *locus in quo*.

On the 14th of February, 1828, a deed, purporting to be a decree executed by Sampeyreac, transferring his claim to the clerk’s certificate of the existence of this decree, and all his right, title, and interest in said decree, to John J. Bowie, was recorded

on the 22d of October, 1828, in Hempstead County. This title was transferred by Bowie, in December, 1828, to John Stewart, who was an innocent purchaser for value. By virtue of this transfer, Stewart filed with the registrar of the land-office at Little Rock an application for the land, which was admitted by the registrar on the 13th of December, 1828.

Matters rested thus till the April term of 1830, when the district attorney filed a bill of review against Sampeyreac, setting out that the whole foundation of the title was based upon a fiction, fraud, and perjury. A *pro confesso* was taken against Sampeyreac for the simple reason that he was *non est inventus* (because in truth he had never been *invented*), but before the decree was entered Stewart was allowed to intervene; it was not charged or pretended that he had anything whatever to do with the fraud. The court annulled the former decree, and thus Stewart lost his land, February 7, 1831. From this decree Stewart appealed to the Supreme Court of the United States.

From the above abstract it will be perceived that

. . . "Ways that are dark
And tricks that are vain"

are not peculiar to the "heathen Chinese." Prentiss and White were for the appellants, Fulton and Taney for the United States.

The reader of the legal profession can see a full report of this remarkable case in 7 Peters, 222. He can there read Prentiss's brief, which exhibits profound research and shows how every available point was made to serve his client's cause. Instead of being in a state of trepidation before that august tribunal, he appeared perfectly self-possessed, without being pretentious; he felt conscious of his powers, and was thoroughly prepared on all points as to law and facts; he *vivified* the skeleton by the matchless powers of his oratory, and for three hours entranced that grave body of men by the witchery of his eloquence. Even the venerable Chief Justice Marshall, who had been accustomed to listen to Pinckney, Wirt, Webster, Clay, and other legal giants of the day, was entranced by Prentiss's unique style of argument,

and expressed his encomiums upon this maiden effort of the young counsellor.

In spite of Prentiss's great effort, however, the law and the facts were too strong against him. It is one of the curses of fraud that, like the breath of the upas, it destroys the innocent as well as the guilty perpetrator. The well-laid scheme of years before, the creation of a fraudulent fiction, had put money into the pockets of the creators, but the putrid bubble finally burst, and the loss fell upon the honest and innocent victim of the fraud.

Although the case was lost, the trip to Washington was of decided advantage to Prentiss,—it enlarged his acquaintance with men, and, like a *rara avis in terris*, he was one who, once seen, could not easily be forgotten.

It is interesting to read in the "Memoirs" his opinions of the men and the things he saw in "the great metropolis":

"Pyramids to ant-hills dwindled,
And giants down to pigmies."

He was disappointed,—with some shining exceptions,—in a general way, at the mental calibre of the then esteemed great men of the country; this may have been owing to the fact that he was, as yet, unconscious of his own intellectual stature.

It was there that he for the first time met with the three great statesmen who, historically at least, like the three stars in Orion's belt, still glitter the brightest in our political constellation. Prentiss seemed to fall more especially under the personal magnetism of Clay; and, with the fidelity of Bertrand to the Emperor Napoleon, he ever afterward clung to him with an unswerving faith through all his checkered political career.

In some respects Clay and Prentiss were not unlike: both were profound lawyers; both were gifted with a courage that never quailed before mortal man; neither ever

"Crooked the pregnant hinges of the knee
That thrift might follow fawning;"

neither ever bowed to the popular breeze when they thought it wrong, but each followed his conviction, though it might lead to martyrdom; and each had acquired a wonderful faculty for

extempore debate, and could sway a multitude as the wind sways the sea. They were alike, too, in their faults and foibles; like the British statesman, Charles Fox, each had a passion for the gaming-table, then (I know not how it is now) so venial at the capital. These faults and foibles in both were so hidden by their splendid qualities of heart and head that, like the spots in the sun, they were absorbed in the general brilliancy.

It was then, too, that Prentiss first met with President Andrew Jackson, and, as an illustration of how apt young men are to be mistaken in their estimate of men when prejudiced against them, I give an extract from a letter of his to his sister:

"I visited the 'White House' with one of the Senators from Mississippi, and was introduced by him to the President, with whom we chatted about fifteen minutes. General Jackson is an old-looking man, and answers very well to the prints you see of him in the shops. I think him about as fit to be President as I am; but I ought not to talk so, for, for aught I know to the contrary, you and A. may, both of you, be *Jackson men*, and then I've got myself into a pretty scrape."

The above shows how woefully he underestimated the powers of that great man; he afterward modified his opinions about him, but never coincided with him politically.

He left Washington City, and reached home about the last of March, 1833. He continued without a partner till August of that year, when he formed a partnership with John I. Guion, one of the most talented men ever born in the State of Mississippi. Congenial in tastes, and nearly equal in talents and education, the association of their early manhood cemented into a friendship which grew stronger as time wore on. Their names are indissolubly linked together in the *causes célèbres* of our State.

Those were the days of the rollicking circuit-riders. It will be borne in mind we had then no railroads. While the High Court was, so to speak, a fixed star at the capital, the other courts were held *seriatim* in the various counties composing the district. The first district at that date was composed of Adams, Jefferson, Claiborne, Warren, and Washington,—all river counties; the second, of Hinds, Rankin, Madison, Yazoo, Holmes, and Carroll. Lawyers, therefore, to attend these courts, radiating from Vicksburg, had to travel (always on horseback) hun-

dreds of miles into the interior. They would generally start together, armed with briefs and baggage in their saddle-bags. They were almost all in the heyday of young manhood and brimful of enthusiasm, and, not unfrequently, of *ardent spirits*.

Although Prentiss, from his physical infirmity, was a poor walker, he was an untiring rider, and fairly revelled in it. It was on these legal raids that he would pour out in profusion his fund of anecdote, wit, poetry, pathos, raillery, badinage, and, sometimes, deep philosophy.

Arrived at their destination, where the accommodations were often primitive and the fare plain, the fraternity would be huddled together by twos, threes, and sometimes half a dozen, in one room. The days were spent in legal combats in court, the nights in jocularities. Notwithstanding that the labors of the circuit-rider were heavy, Prentiss always seemed to thrive upon them. Card-playing was the most usual relaxation, sometimes for mere fun and sometimes for deeper stakes.

I have said that the circuit-riders generally went in troops, but on one occasion it so happened that Prentiss got caught, out on a circuit, alone at a little house between two creeks during a freshet, therefore he could neither retreat nor advance, and there were no books or papers with which he could while away the time; he consequently became very restless, but in looking around he noticed that the clock upon the mantel did not *run on tick*, but was *dumb*,—here was a chance for something to do. He called the landlady.

“Madame,” said he, “is your clock out of order?”

“Yes; it hasn’t run for years.”

“Why don’t you mend it?”

“Because we haint got any clock-makers about.”

“I can put it in apple-pie order if you’ll let me.”

“Are you a clock-maker?”

“No, madame.”

“Are you a silversmith,—did you ever work in a shop?”

“No, madame.”

“Well, how *can* you expect to *repair* my clock? No, sir, you mustn’t touch it.”

“Well, madame, what’ll you take for it?”

"Well, I suppose it's worth a five; you can have it for that anyhow."

Prentiss closed the bargain at once, paid the money and took down his treasure. He took it all to pieces, cleaned every part and nicely oiled them, then, strange to say, put them together again just as deftly as a clock-maker could have done. The thing started into new life and kept as good time as ever.

The question arose, what was he to do with his property when he left? It was "an elephant"; it could not *run* in his saddle-bags while it was *trotting* on horseback! He had no idea, however, of transporting his "elephant." Just as he was leaving, the hostess asked,—

"What are you going to do with your clock?"

"I'll make you a present of it," said Prentiss.

"Oh, but you paid me for it."

"That makes no difference." He had killed *time* in starting it, and that was all he wanted.

And so the extempore "Yankee clock-maker," who years before had tried his '*prentice* hand on the watch at "Rokeby," left, amidst the profuse thanks of the landlady for his kindness and liberality. She little knew what a distinguished man had honored her humble dwelling, nor do I know that she ever discovered the fact; if so, and these pages should ever meet the eye of herself or of any of her descendants, I should very much like to know if that old clock still marks the foot-falls of Time as he steps along our earth.

He was always a most delightful companion and admirable at repartee. He was like an electrified body: whoever touched him in a witty sparring bout received the shock with the spark. When I was a small boy I witnessed an illustration of this at Brandywine Springs, in Claiborne County. Prentiss was playing billiards with a young man of perfect physical form; straight as an Indian, he was tall, graceful, and athletic; just as he had made a lucky hit and was walking around the table to follow up the blow, he remarked, sarcastically, "No man on such a pair of legs as you've got can beat me at billiards." Without a moment's hesitation Prentiss retorted, as he limped around the table, "It is a marvel to me, sir, why God Almighty should

put a *head with so little brains on such a good pair of legs as you've got.*" This of course turned the laugh upon the coarse vulgarian, and the game proceeded to its close without any further comments in that line.

Germane to these sparkling incidents of his career, I shall here give another specimen of his playful wit. Just after the adoption of the new constitution a Judge N., who had previously been a judge under the old *régime*, was a candidate before the people for the same position under the new constitution. During his term he had *bailed* out a prisoner who was very obnoxious to the people in the neighborhood where the crime had been committed, and this action was being worked up by his opponents against his election; he was naturally, therefore, very tender on the subject. He, with Prentiss and others, started on a circuit; they came to a small river which had to be crossed by a ferry. Prentiss was dressed in a summer suit of spotless linen; he was the first to go aboard the ferry-boat, leading his horse. The boat itself was a rude, shackling craft, with rickety flooring and an abundance of bilge-water beneath; the horse floundered, slipped, and splashed an unknown quantity of dirty water all over Prentiss; he ruefully looked down at himself for a moment, then cast his eye imploringly up to the judge and said, with mock gravity, "May it please your Honor, your petitioner prays the court to order out this boat on *habeas corpus* and bail her out." Although the court was then in *bank* there was not time to grant it, and so the jolly crowd passed over the river in high glee at the joke.

Prentiss always enjoyed these rides through the country. He possessed a keen sense of the ludicrous, and was full of anecdotes. I have often heard him tell with gusto his ride with Tom B. This latter could gin out words faster than a cotton-gin could gin out cotton. The two were riding along the top of a ridge when Tom proposed the following query,—

"Prentiss, why is it that when trees come out on the hillside they do not grow straight out, eh?"

Prentiss seeing this was an abstruse question, to evade it answered, "I can't tell."

"Well," said Tom B., "I'll tell you how it is: sun draws 'em up,—sun draws 'em up, that's it."

Our narrative has rippled along till it has reached the year 1833. Up to this time Prentiss had fondly cherished the wish and hope to revisit his old home, but now an event occurred that *fixed* his destiny: he was employed to investigate the affairs of the estate of the late Newit Vick. This matter is one so intimately blended with the story of his life and so historic that an extended notice of it must be excused.

In the early days of the Mississippi Territory the Rev. Newit Vick, a Methodist minister, moved with his family to a place in the vicinity of Selser Town, about twelve miles east of Natchez. Here he remained for a few years, till he was attracted to another spot, more eligible, as he thought, in Warren County. The place he selected was called "The Open Woods"; it was about five miles east of the present site of Vicksburg, and was called "The Open Woods" because it had been cleared in the following primitive manner by the Indians it was said. Before being cleared it was a dense wilderness of gigantic cane and forest-trees. The cane was immense, ranging from ten to twenty or thirty feet in height, hollow between the joints (some foot in length), and loaded with foliage. At the proper season this cane was cut down, and lay in mass upon the ground till it was dry, when the torch was applied, and instantly the flames burst forth and spread with rapidity; they swept over the woods like the fires on a burning prairie. It was a sublime and stirring spectacle. The bursting of the pent-up air from the cane-barrels sounded like the rattle of musketry upon a battle-field of a hundred thousand infantry "firing at will." The undergrowth was cindered to ashes, the heavy timber girdled to death, and afterwards stood as dead sentinels of the holocaust.

Vick purchased this "Open Woods," and sent his son, Hartwell, in advance, to prepare for his coming; he followed the succeeding year, and settled there. Besides this "Open Woods," Vick purchased two other tracts fronting upon the Mississippi River; the lower one containing some hundreds of acres, the upper "*one containing two hundred acres.*" Vick was a man of indomitable energy and a *prophet*. As he stood upon the lofty hills of the "upper two-hundred-acre tract" and gazed upon the mighty river winding at its base, then, casting his eye north-

ward, beheld the Yazoo debouching itself a little way above into this stream, with prophetic vision he foresaw that here could be laid the foundation of a mighty city. True, the topography was rather inappropriate, for it seemed as though nature, in a storm, had quit there, leaving the *earth-waves* mountains high, and as steep, ay, steeper than the billows of the sea in a cyclone. Yet time and patience and labor could level these and bring them to their just proportions, for the hills themselves were founded upon a rock. Such, doubtless, were the incipient dreams of the Romulus of the "Hill City."

He did not, like the founder of Rome, begin by building a wall; his first essay was with a pocket-compass and surveyor's chain; with the help of these simple instruments he began, as early as 1819, to lay off lots south of Glass's Bayou, at a point northwest of what was afterward Lot 1, running thence south, thence east, thence north and west, including as far east as New Cherry Street. There was a pencil memorandum of a map, but this was lost.

Here, as is often the case in the midst of our earthly projects, the lofty aspirations of the projector were cut down by the hand of death. It is now believed that Vick was smitten by the yellow fever; be this as it may, he died the very year of the initial survey, and his devoted wife breathed her last within twenty minutes after he had heaved his last sigh. This exemplary couple, who, like Isaac and Rebecca, had lived faithfully together, were literally "in death not divided"; hand in hand "they had climbed the hill together," hand in hand their pious souls were wafted to "a city not built with hands, eternal in the heavens."

The will of the founder of Vicksburg did not die with his death, it survived, and with that our story has now to deal. I ask no apology for giving the will *in extenso*, because it is, to speak metaphorically, the *corner-stone* of the city of Vicksburg, and because it is blended with the *pecuniary rise and fall* of our friend, Prentiss. After commending his soul to Almighty God and his body to a Christian burial, the will of Newit Vick proceeds as follows:

"Second. I will and bequeath to my beloved wife Elizabeth an equal share of all my *personal estate*, as it is to be divided between her and all her

children, as her own right, and at her own disposal during her natural life. And also for life the tract of land at the 'Open Woods' on which I now reside, or the tracts near the river, as she may choose; *reserving two hundred acres, however, on the upper part of the uppermost tract to be laid off in town lots, at the discretion of my executrix and executors.*

"Third. I will and dispose to each of my daughters one equal proportion with my sons and wife of all my *personal estate* as they come of age or marry, and to my sons one equal part of my personal estate as they come of age, *together with all of my lands.* All of *which* lands I wish to be appraised, valued, and divided when my son Wesley arrives at twenty-one years; the said Wesley having the one part, and my son William having the other part, of the tracts unclaimed by my wife. And I bequeath to my son Newit, at the death of my wife, that tract she may prefer to occupy. I wish it to be distinctly understood that that part of my estate which my son Hartwell has received shall be valued, considered as his, and as a part of his portion of my estate.

"Fourth, and lastly. I hereby nominate and appoint my beloved wife Elizabeth, my son Hartwell, and my nephew Willis B. Vick sole and only executrix and executors of this my last will and testament. It is, however, furthermore my wish that the aforesaid Elizabeth should keep together the whole of my property, both real and personal, reserving the provisions before made, for the raising, educating, and benefit of before-mentioned children.

"It must be remembered that the lot of two acres on the bank of the river on which a saw-mill house is erected belongs to myself, my son Hartwell, and James H. Center when said Center pays his proportional part. I wish my executors furthermore to remember that the *town lots now laid off, or hereafter to be laid off on the aforementioned two hundred acres* of land, should be sold to pay my just debts or other engagements in preference to any other of my property, for the use and benefit of all my heirs; and that James H. Center have a title made to him for one lot already laid off of half an acre in said two hundred acres, and on which he has builded, when he pays to my executors the sum of \$300.

"In testimony, etc., August 22, 1819."

The words interlined, "for the use and benefit of all my heirs" before signing. Signed "NEWIT VICK. [Seal.]"

Witnessed by three witnesses.

This will was duly probated on the 19th of October, 1819. The executrix, as before stated, having died immediately after her husband, Hartwell appeared, and renounced, in writing, in favor of the nephew, Willis B., and letters testamentary were granted to him.

In 1821, without having done anything to carry out the

grand scheme of the testator, Willis B. Vick applied to the Probate Court for leave to resign the trust. This court refusing to allow him to do so, Mr. John Lane, who had married one of his (Vick's) daughters, appealed to the Supreme Court. This court reversed the decision of the Probate Court, accepted the resignation of Willis B. Vick, and discharged him; he died shortly after.

In October, 1820, Hartwell Vick applied for letters testamentary, but, failing to give bond and security, his application was refused. In October, 1821, letters, with the will annexed, were granted to John Lane. Hartwell Vick reapplied for letters, upon the ground that the letters to Lane were void, as he (Hartwell) had not renounced his right. This reapplication was refused by the Orphans' Court, and the decision, on appeal to the Supreme Court, was sustained.

John Lane seems to have caught the inspiration of the testator, and in 1821 filed his petition to sell one hundred town lots to pay the debts of the estate. Henderson and Morse, both sons-in-law of Vick, and Nancy, one of the daughters, intervened, and prayed for the partition of the town lots among the heirs, themselves included. Lane rejoined by denying the right of partition, and claiming the right to sell, in order to pay debts and distribute the remainder of proceeds. The Probate Court ordered a partition, and Lane appealed. The Supreme Court sustained the order of partition by the lower court, and accordingly commissioners for partition were appointed; their report, with the plat annexed, was returned approved, and recorded. On this plat "Levee Street" (known as the Commons) is left open as commons for the public. Lane proceeded with his administration, sold some sixty or seventy town lots at various prices to various parties, paid up all the debts of the estate, and closed his final accounts in 1829. All these various heavy and complicated transactions had taken place, as is obvious, before Prentiss had come to the bar.

In the mean while Vick's younger heirs were growing up, and began to make inquiries concerning their father's estate. William and J. W. Wesley had sold a part of the Commons to one Reppleye, and he had brought an ejectment suit to recover it.

This was the tangled hank presented, in 1834, to Prentiss to unravel,—a case out of which he expected to realize a three-thousand-dollar fee.

From the above brief synopsis the reader can at once perceive that it was a case of great magnitude, not only because of the great amount of property involved, but also because of the deeply-intricate questions and the profound investigation required.

In the *Rappleye* suit a new actor appeared in the drama. To the unprofessional reader it may seem anomalous that one court should be allowed to lay its hands upon and stay the proceedings of another court, but so it was in this case. The city of Vicksburg filed her bill in the Chancery Court, setting up title to the "Commons," in virtue of a public dedication of it to the city, first by the testator, then by the administrator, Lane, and, lastly, by prescription from the acts and acquiescence of the heirs. On these grounds she prayed for an injunction to restrain *Rappleye* from the further prosecution of his ejectment suit.

It was a battle between the legal giants of the day. Prentiss, Guion, Bodley, and Harrison were counsel for the heirs of Vick, while Holt and Grayson represented the city of Vicksburg. The city, in common parlance, won the suit in the lower court, and the defendants appealed to the "High Court of Errors and Appeals" (the Mississippi reader will note the change in the name of this court from "Supreme Court,"—this was in virtue of the new constitution of 1832). Prentiss in the mean while had bought out the larger portion of the interest of the heirs, and thereby became personally interested.

Here occurred another of those curious episodes which seem to link the destinies of some men together. The case was before the High Court twice; in both instances Judges Sharkey and Wright recused themselves because interested in the incipient stages of the case. In 1836 the governor appointed Messrs. Tucker and Trimble special judges with Judge C. P. Smith, who passed upon some orders; but in 1837 Samuel S. Boyd and Thomas J. Jennings were appointed, and with Judge Smith constituted the court that was to preside. Thus it happened that Prentiss's old chum was called upon to decide the most important case of his (*Prentiss's*) life.

The briefs on both sides in this celebrated case are masterly ; but a brief, at best, is but as a skeleton ; it matters not how nicely each joint may be adjusted, it lacks the symmetry of fleshly vitality, the spoken argument alone can convey its full force and power.

In the reported decision in 1 How., Miss., 379, "*Vick & Rappleye v. Mayor and Aldermen of Vicksburg*," it will be seen that the construction of Vick's will as to *who were the devisees of the real estate*—that is, whether or not the land was willed to the *sons alone*, or to the *sons and daughters together*?—was collaterally brought under review and decided by the court. It was in this way: The city claimed a dedication, not only by Newit Vick's act, but also in virtue of the probate proceedings heretofore detailed between Lane and the three daughters with their husbands, thus representing *the whole of the female members of the Vick family* ; that suit had settled the question, so far at least as those parties were concerned. The court, after pointing out the fact that this decision could not bind the minors, etc., proceeded to show it could not affect the case at bar, as it was based upon the assumption that the *daughters* were devisees of the land in common with the brothers, which *assumption was not true*. On this single point the court uses the following emphatic language :

"The whole proceeding" (that is, Lane's petition for sale and the counter-petition of the daughters for partition of the levee plat) "is based upon a wrong construction of the will. The daughters of Vick acquired no right by the devise to this land of their father ; the clause from which their supposed interest arises warrants no such inference. The sale of the town tract was only enjoined in case it should be needed for the payment of debts. It was not an absolute direction to the executors to sell the land, but only to appropriate it to the payment of the debts in preference to the personal estate, and thus was considered to be for the benefit of all the heirs. One consideration renders this construction certain beyond all doubt. If Vick had died leaving no debts there would not have been a shadow of authority in the will for selling any portion of the tract. And this was not an unreasonable provision, for he might have desired the town site to remain in the hands of those who bore his own name, and so have left it to his sons, and directed it to be kept together till Wesley Vick became of age. At the same time, as he had made provision for his daughters out of his personal estate, and reflecting

that his debts might exhaust that entirely, his parental affection overcame his aspirations for fame as the founder of a city, and he ordered the town property to be disposed of rather than that his daughters should be deprived of the means of a comfortable subsistence. The Orphans' Court took a different view of the subject, and the inquiry is, Whether the proceedings of the commissioners, acting under their authority, can bind these defendants? We think not. They were not parties to them," etc.

By a unanimous opinion the decision of the Chancery Court was reversed, and Prentiss was at once elevated to wealth. It would be anticipating the regular chronological detail of events were I to recount the effects of this decision upon his fortunes. The relation thereof must therefore be deferred.

It was during this year of 1833 that there occurred the first painful episode of his life in Mississippi. I have already alluded to the jocular, pleasant side of the lawyer's life in riding the circuit. When they got to arguing in the court, however, personal collisions not unfrequently arose in the heat of the debate, and these sometimes resulted in personal conflicts. On one occasion such an one happened in the little town of Brandon between Prentiss and General Foote.

General Foote was the most fluent speaker I ever listened to; his irony was sharp and cutting. Like the skilful matadore, he would fling his shafts of sarcasm at his adversary in order to provoke him to madness, and thus get him into his power. All this was done in a polite, good-humored manner; but naturally his opponent could not see it as such, and hence serious difficulties sometimes ensued.

He and Prentiss were engaged in a case upon opposite sides, when the latter, deeming some of his remarks offensive, resented them upon the spot by a blow. Foote was too magnanimous to strike back, but in due time challenged him. The parties met, accompanied by their respective friends and seconds, on the 5th of October, 1833, on the duelling-ground in Louisiana just opposite to Vicksburg.

Prentiss's resentment had passed away with the occasion, and from the first he had intended (this intention, however, was known only to himself) to throw away his fire. He was such an unerring marksman, however, that this humane purpose came very near being thwarted, for General Foote fired so

quickly that it drew Prentiss's fire ere he had elevated his weapon, as was his intention, above the danger-line, and his ball cut the shoulder of Foote's coat, without, however, wounding him. The honor of both combatants was satisfied, and they left the field. Colonel Dick Archer says that when he met Prentiss after this duel and congratulated him on not having the blood of a fellow-being upon his hand, Prentiss was so overcome that he burst into tears. This is one of the many proofs of how utterly ignorant the outside world may be of the internal emotions of the heart; and fortunate indeed would it have been had the world permitted this matter to rest; but, alas! it was not allowed to be forgotten.

Those who have read "Georgia Scenes" will doubtless remember, in the combat, the character of "Rancey Sniffles," the hero, who rejoiced in a fight, but always took very good care to be only a spectator. So, concerning this duel, people began to talk; some, it is supposed, insinuated that Prentiss, by using his cane as a support for his lame leg, fired with the advantage of a *rest*. These rumors floated to the ears of Prentiss, and of course were galling to his sense of honor. He determined to probe to the bottom the report concerning himself, and therefore asked a friend,—

"Did you ever hear whether or not Foote had made the insinuation that I had taken rest because I leaned upon my cane?"

The friend replied that he had not heard anything of the kind.

"Well, I have heard it, from what I believe to be good authority. I had no animosity against him when I fought him, but the next time" (there is no use to repeat the bitter language) "he shall not come off so lightly."

Here let us pause, and remember, ere we censure him, the depth of the *supposed* provocation. It was misery enough to him to be afflicted for life, but to have his infirmity thrown up to him at such a crisis, in such an hour, on the field of honor, too, where he had exposed his own life without seeking that of his adversary, was to him an insult only to be expiated by vengeance.

The rumors and counter-rumors gradually assumed such shape and body that they culminated, and Prentiss sent, by his friend, Major G. B. Shields, a communication to Foote, the purport of which was that he was willing to receive another call from him. The bearer of the communication reached Clinton at night. Foote, at that time, was a married man and the father of a family, who were dependent upon him for support, but his wife was of heroic mould, and could brave anything rather than see her husband laid under the ban of cowardice. Foote courteously told the messenger that he would send his reply in the morning. He did so. The preliminaries as to time, place, and terms were soon arranged.

Prentiss came down in the mean time to "Coventry" for preparation. Each felt that this time there was to be no child's play. The former fight had been about a few idle words and a blow, but this was to be about a supposed imputation that touched the soul of honor.

The rumors of the impending duel in the mean time were bruited about. The officers were thought to be on the watch to arrest the parties. In order to avoid this, some two or three days before the appointed time Prentiss and his friends—General Huston and Major G. B. Shields—secreted themselves near the landing, "under the hill," at Natchez, on the watch for a boat. Time passed, but none hove in sight. The parties lay close during daylight, but at night would sally out for an airing. In one of these airings, all *incog.*, by the merest accident, they stumbled on to a cock-pit. Much to their astonishment and mortification, just before the roughs were about to pitch two of the noble birds into the pit they named one after each of the principals in the coming duel, and bets were put up. In about a trice the one answering to the name of our friend fell at the feet of his antagonist. It is needless to say that the *incog.* spectators retreated from there as quick as possible. Prentiss, with a tinge of superstition, natural to all of us, regarded it for the moment as a bad omen.

In due time, much to their relief, a transient boat came along. They got aboard of her, and reached the duelling-ground just in time. It was the same spot on which Prentiss and Foote

had fought before, and, strange to say, hundreds had gathered there to witness what might prove a tragedy. A prurient curiosity for the tragic seems to be a part of human nature. The morbid taste which prompted the Roman populace to throng the arena that they might see the gladiator die seems not to have been exorcised by the spirit of Christian civilization.

The gloom originating from the untoward event above given had passed from the brow of Prentiss, who seemed cheerful as he walked to the ground. Just before reaching it he observed some youths up in a tree, perched there in order to get a better view. He remarked to them in a jocular tone, "Boys, you had better come down. General Foote shoots wild, you know, and you may get hit up there." I know not whether the boys took the hint, but this is more than probable.

At the appointed moment the parties took their positions. As Prentiss reached his, he with a smile tossed his cane from him, that his antagonist might see that *this* time he was without a *rest*. The parties stood side by side, some ten or twelve paces apart. The word was given, "Gentlemen, are you ready? Fire,—one—two—three!" General Foote fired first, his ball striking the ground immediately in front of Prentiss,—a line shot. He then stood, his left arm clasped across his side, his right arm hanging down. He neither blanched nor quivered, although the deadly aim of his opponent was upon him. Prentiss pulled his trigger, *but* the percussion-cap *exploded* without firing the pistol. General Huston immediately stepped up, put on another percussion-cap, pointed the pistol at a tree, and fired the bullet into it, thus proving that the fault was in the defective cap, not in the loading. It is said that of the hundred caps afterward tested from that box there was not a single failure, and one is almost tempted to look upon the first and *only failure* as a special interposition of Providence in mercy, for, had Prentiss's pistol fired, General Foote would in all probability have been killed.

The Moloch of honor was not yet satisfied, and the parties again took their stand. At the second fire, Prentiss escaped unscathed, but General Foote was seriously wounded. He reeled, staggered, and fell into the arms of his friend.

And now let us drop the curtain upon this painful scene. Hereafter we shall see how firmly these two then mortal foes became reconciled, and how warmly they became attached to each other. This attachment was grounded upon the respect each entertained for the chivalric qualities of the other. In speaking of the event, I have often heard Major Shields say, "A braver man than General Foote never lived."

Prentiss's brother tells us in his "Memoirs" that their mother never heard of this painful episode till after Seargent's death, and therefore the wound was healed before the pang was felt. He went on the field of honor in accordance with the spirit of the age in which he lived. He sums up the affair to his brother as follows:

"I am very sorry you have heard of my foolish scrape. I regretted the occurrence as much as any one. I neither sought the difficulty nor sent the challenge, but having received it, under the circumstances that existed, I could not have acted differently from what I did. If I had, I should have lost *my own self-respect*, and life itself would have had no further objects for me. . . .

"I am *no advocate of duelling*, and always shall from *principle* avoid such a thing as much as possible, but when a man is placed in a situation where if he does not fight life will be rendered valueless to him both in his own eyes and those of the community, and existence will become a burden to him, then I say he will fight, and by so doing will select the least of two evils. I know you will say that such a case as I have supposed cannot occur; but, brother, I think you are mistaken, and such cases may occur, but not often. However, I trust I shall never again have to act in such a matter. You may rest assured that I shall *never seek a quarrel*, and shall avoid one so long as I can do so and retain my self-respect."

His subsequent career proved the sincerity of these promises, and therefore we gladly pass from the shadows to the lights in his life, for what is human life but a panorama of "lights and shadows"? We shall hereafter see that, however reckless he may have been of his own life, in the quarrels of others he was ever the peace-maker when it was possible to adjust the difficulty. He had now so firmly established his reputation for courage that he could well have borne upon his shield the motto of the "Knight of the Leopard," *Nemo me impune lacessit*.

CHAPTER VI.

IN 1834, Prentiss's professional business steadily increased; not from any factitious aids, but simply by the force and power of his own talents. I never knew a genius so utterly devoid of personal vanity as he: he never seemed elated by adulation or inflated by success. In all his letters home, where he might have been excused for ventilating vanity, had he had any, he speaks of his efforts with becoming modesty. When he had distinguished himself his expression was ever, "I have done pretty well, I believe." His discourse was certainly diametrically opposed to the one described by Lowell as being "Like the peacock's tail,—all dotted o'er with I's." He estimated his professional income this year at three thousand dollars, and now, for the first time, he felt himself able to help on in his great life-work. The following extract from one of his letters will show what that work was:

"This year I have been attending to more business than all the time I've been practising before. I have in particular engaged in many *capital cases*, where men have been tried for murder and other enormous crimes, and I have been very successful. Heretofore I have made little money, and even now the fees for most of my business are still owing me. I hope hereafter to *be able to do more for those I love*. If my views are not too sanguine, I shall be able to gratify myself by so doing."

During this year (1834) he delivered his first literary address in this State; this address was a eulogy upon Lafayette. When Prentiss was a boy he had met and shaken hands with him, hence the almost holy veneration for the man was deepened by a sort of personal attachment, for Lafayette's genial disposition was charming, even to children, as the following incident will illustrate. In passing through Orange Court-House, Virginia, when he was making his triumphal tour through our country, a beautiful little girl presented him with a rare bouquet.

The hero received it with a smile and a kiss. He continued his journey southward, and he was everywhere hailed with welcome. His pathway was literally strewn with flowers by the hands of hundreds of little girls, yet in passing through Orange, on his return northward, among a group of children assembled to greet him he espied the little one who had given him the flowers, recognized her immediately among that bevy of girls, and calling her to him, said, in his broken English, "Ah! mon leetle fren, I ave got your flower yet."

Inasmuch as Prentiss's eulogy of Lafayette is given in the "Memoirs" *in extenso*, we shall here only give the opening and closing paragraphs:

"Death, who knocks with equal hand at the door of the cottage and at the palace gate, has been busy at work; mourning prevails throughout the land, and the countenances of all are shrouded in the mantle of regret. Far across the wide Atlantic, amid the pleasant vineyards on the sunny lands of France, there, too, is mourning, and the weeds of sorrow are all there, worn by prince and peasant. The friend and companion of Washington is no more! He who taught the eagle of our country while yet unfledged to plume his young wing and mate his talons with the lion's strength, has taken his flight far beyond the stars, beneath whose influence he fought so well! . . . Lafayette is no more! . . .

"Peace be to his ashes! Calm and quiet may they rest upon some vine-clad hill of his own beloved land, and should be called the 'Mount Vernon' of France. Let no cunning sculpture, no monumental marble, deface with its mock dignity the patriot's grave, but, rather, let the unpruned vine, the wild-flower, and the free song of the uncaged bird, all that speaks of freedom and peace, be gathered around it. Lafayette needs no mausoleum, his epitaph is graven in the heart of men."

The address created a profound impression at the time, and the boys in the streets were often heard declaiming its most eloquent parts.

It is a noticeable fact that Prentiss's written productions are never so eloquent as his extempore speeches. His thoughts flashed faster than his pen could record them. This may, in part, be attributed to his early habit practised in the "Spouteroi Club." Strange to say, although he could quote by the hour from others, he could never quote from himself. It is said of Boilleau, the most prolific of French writers, that he could carry in his teeming brain for weeks and months whole volumes of

thought, but the moment that these were committed to paper he could scarcely quote a single line correctly; so with Prentiss with regard to his spoken speeches. I have heard of instances when he was called upon to repeat for publication some great speech of his, he would stand up, walk to and fro, begin to mutter here and there a sentence, and finally burst forth with,—“Oh, pshaw! I can't do it; I lack the inspiration.”

A friend once asked, “Prentiss, how is it possible you can so electrify a crowd?”

“Because,” said he, “they first magnetize me.”

When a crowd stood before him he *blazed* with an electric light, but, like Boilleau, when the effort was over, it seemed to fade from his memory.

This idiosyncrasy of a preference for extempore speaking accounts for his very small number of written addresses, and even these he could not successfully declaim, for the fervor of his delivery would burst beyond all the channels of the *written* discourse. He once wrote to one of his sisters, “I had rather *make ten speeches than write one.*”

Because of his genial manners and wonderful talents, his local reputation had spread so rapidly that, as early as 1834, he had been strongly solicited by numerous friends and admirers to become a candidate for Congress; but professional business poured in upon him, he had no time for politics, and had the good sense to decline the request. In a letter to one of his sisters he playfully alludes to this, and begs her not to laugh at him for becoming so famous in so short a time.

The year of 1835 was ushered in, and for the first time since Prentiss had settled in Mississippi was he able to leave his business and steal away on a visit to the friends of his childhood. Of all the joys of life there can be none more ecstatic than the return of a successful boy to his native home. All its endearing associations come thronging upon his memory, and *filial affection* is crowned by *parental pride*.

He, with his warm personal friend, E. C. Wilkinson, took passage by sea, and had a pleasant voyage. The meeting with his family was peculiarly felicitous, for not a link in the chain had been broken, all were there, on the tiptoe of expectation.

During the voyage he would pour out the beauties that were stored within the treasures of his memory. His friend Wilkinson writes :

"He would recline upon the quarter-deck, and hour after hour rehearse from Shakspeare, Spenser, Milton, Byron, Scott, and the chief poets of England page by page in his finest style ; many of the best passages I afterwards recognized, as he would reproduce them in his public speeches. He kept us in excellent spirits during the long voyage, although, with his characteristic impatience, he would sometimes wish for a *storm* as a relief to the dead calm of the sea. His mind was in perfect tune. He was not then distinguished in the great world ; it was just before his genius burst upon the country in all its splendor. The commonest incident that happened in the ship was sure to call forth some highly poetical and happy illustration or witty remark, sometimes borrowed, but almost always original. A dolphin, for example, was taken, and as it died on deck, he gave its requiem from the beautiful lines of Byron :

' Parting day

Dies like the dolphin, whom each pang imbues

With a new color, as it gasps away,

The last still loveliest, till 'tis gone, and all is gray.'

"Well, at last the vessel anchored in port, and a day or two afterwards we agreed to take an excursion together to West Point. Here, being entire strangers to every one, we sat at the *table-d'hôte*, opposite a party quite distinguished in appearance, one of whom, was the attractive and distinguished Miss W., afterwards Madame L., of Mobile. Some courtesies of the table passed between our parties, and after we had withdrawn from the dining-parlor, Miss W. sent a gentleman to us to request an introduction. Prentiss declined,—he *did not* at *that time* frequent the *company of ladies*,—but upon hearing who the lady was I readily complied. At the end of a pleasant interview, I, after a long search, found Prentiss lying in the shade, on the bank of the river, in a somewhat sad and contemplative mood. I rallied him upon his want of gallantry, and for the only time I ever heard him, he alluded most feelingly to the dwarfed and crippled condition of one portion of his body, alleging that as his reason for not desiring and ever shunning the society of ladies, and he would not be persuaded that any man could possess attractions sufficient to obscure such a defect as his."

The closing sentence of this beautiful letter illustrates what I have already said, that Prentiss's physical misfortune was the secret bane of his early career ; but this was an under-current of feeling rarely ever revealed to mortal sympathy. Even to Major Shields, his most devoted friend, he never alluded to the

subject. Wilkinson and Henry A. Wise (as we shall hereafter see) were the only ones to whom he unbosomed this hidden anguish of his soul.

His eldest sister met him in New York, and together they went to his dear old home in Gorham. The meeting of the mother and her darling boy, after an eight years' separation, cannot be described, for there are some feelings pictured in the soul that no limner's pencil can paint, and some emotions of the heart too deep for utterance.

His brother George was at Brunswick, and, being apprised by note that he was at the hotel, hastened thither, and, as he writes,—

... "Found him sitting in a retired room and absorbed seemingly in deep thought. He was musing, doubtless, upon the varied fortunes which had attended him since nine years before, when he bade adieu to college scenes. His appearance at this time was very striking, and arrested the eye of the most casual observer. When animated by conversation every feature glowed with intellectual beauty. His smile was peculiarly radiant; the tones of his voice were clear and persuasive, while the shape of his mouth and the whole carriage of his head gave assurance of an indomitable will. His mother at first thought him greatly altered, but in a few days the boyish looks came back, and he seemed just as he did on the day of setting out for the far West."

The accuracy of the above graphic pen-picture can be verified by the portraits taken of him at that time.

He spent weeks most delightfully in going over his old playgrounds. The reverberation of his fame in the far Southwest had, to use a modern word, been *telephoned* to his home; friends and neighbors had heard it and were very proud of the Gorham *product*. They flocked to see and hear and congratulate him.

In the midst of this enjoyment he received a shock on learning of the painful tragedy which occurred at this time in Vicksburg. It was one of those popular upheavals which, like a storm, sweep over a place to purify its atmosphere. The circumstances, in brief, are as follows: The city had been overrun by men of the baser sort. Professional gamblers had flocked in, to pick the carcasses of the unwary. Outrages occurred, with murder and rioting. Ladies were insulted on the streets.

The people rose in mass and notified the gamblers to leave; they refused to obey the order. The citizens formed in a body and went to their dens, forcibly to eject them. In the *mêlée* one of the most beloved and distinguished physicians of the city, Dr. Bodley, was killed. This aroused the people to a frenzy beyond all bounds. The gamblers were driven out, some of them were caught and hanged on the spot, while others escaped "by the skin of their teeth" in jumping on a boat which was just then casting off her tow-line. This act was justifiable under the great maxim, *salus reipublicæ suprema lex*.

After spending halcyon days in the midst of his family and friends, Prentiss returned to Vicksburg about the 1st of September, and once more resumed the harness. He wrote back home that business was crowding in upon him, and felicitated himself upon having returned in time to reap the harvest.

During the fall of this year occurred an incident which proves the self-sacrificing spirit of the man. The appalling news reached him that his former partner and friend, General Huston, had been stricken down by the smallpox at "Coventry." As soon as he learned this he got on a boat and came down to nurse him. If I remember correctly, Eli, General Huston's brother, had already died of this loathsome disease, and his wife had soon followed him. She literally died of a broken heart. It must not be forgotten how Prentiss had stood on the quarantine question at Vicksburg, and here he proved by his works the faith that was in him. He nursed his sick friend as tenderly as a woman could have done. His friend recovered, but, as was to be expected, he contracted the disease, and it broke out upon him after his return to Vicksburg. Having been vaccinated, however, in early youth, the disease ran its course under the mild type of *varioid*. He recovered without being pitted, and was ever after contagion-proof. Upon his recovery he resumed his practice; but he is now to appear in a new rôle, which must be deferred to another chapter.

CHAPTER VII.

ALTHOUGH up to the year 1835 Prentiss had often been solicited to take the political field, he had persistently refused, upon the ground that it was distasteful to him, and that he had not the time to spare from *his life-work*; now, however, the public pressure became so urgent that he could no longer resist.

The Whigs, by seizing upon the troubled pecuniary condition of the country,—which they attributed to the Democratic administration in destroying the United States Bank,—had carried the State by electing Charles Lynch governor and by electing a majority of the Legislature. Prentiss went in on this tidal wave as a member from Warren County.

Inasmuch as this was before the erection of our present handsome State-house, the Legislature met on the first Monday in January, 1836, in a very plain two-story brick house built by one S. Hines, as we shall see by the sequel, out of mortar not well tempered. This house stood upon the north side of the present Capitol Street, about midway between the governor's mansion and the State-house. The Senate occupied the upper and the House of Representatives the lower story, therefore we had literally an *upper* and a *lower* house of *parliament*.

This Legislature was composed of a very able body of men, probably the most able that ever assembled there. The profound lawyer and pure patriot, George Winchester, was senator, while John T. McMurran and Adam L. Bingaman were representatives, from Adams County; Talbot and Wall were from Amite; the able but eccentric Buckner Harris and A. G. Brown represented Copiah; Nicholson, Dunlap, Amos R. Johnson, and Thomas H. Williams were from Hinds; Prosper K. Montgomery was from Jefferson; Sam Dale, from Lauderdale; S. J. Gohlson, from Monroe; King, from Rankin; Volney E. Howard, from Scott; Morgan McAfee, from Tallahatchee;

Alfred Cox, from Washington; George H. Gordon and Preston W. Farrer, from Wilkinson; T. J. Green and S. S. Prentiss, from Warren; E. C. Wilkinson and Duval, from Yazoo. As this roll is called the intelligent reader need not be told that some of these men acquired national reputations.

Into this galaxy of talent the young representative from Warren at once took position as a star of the first magnitude, rising with some in *conjunction* and with others in *apogee*. He was appointed chairman of the Judiciary; this is at all times an important post, but particularly was it so at that era, for the statute law of the State had not as yet been completely modulated to accord with the progressive spirit of the age as embodied in the new constitution, whose radical changes from the old have already been noted. Through the crucible of the Judiciary Committee had to pass all the new acts proposed and all the proposed amendments to existing laws. The post of chairman of this committee, therefore, besides being one of the first honor, involved great labor and great responsibility. We shall see farther on how faithfully Prentiss fulfilled his allotted duties in this position.

At that time what was called the "Chickasaw purchase" was embraced within the arms of the three great northern counties, Monroe, Tallahatchee, and Washington. One of the first acts of the session was to parcel out and subdivide this large territory into twelve new counties. There is a tradition that in the naming of them the State is indebted to the poetical taste of Bingaman, who in doing so blended classic lore and Indian fable,—thus it was that History and Legend stood sponsors at their baptism. While the names of "Marshall," "De Soto," "Lafayette," and "Bolivar" perpetuate the memory of those illustrious men of our own race, the names of "Tishemingo," "Itawamba," "Tippah," "Pontotoc," "Chickasaw," "Panola," "Tunica," "Coahoma," and "Issaquena" serve to keep alive the memory of the "red men,"—each carrying a story in its liquid title.

We shall soon see what a "muss" was stirred up when these *infants* were lifted from the cradle into the State. It may have been owing to the fact of Bingaman's having named these coun-

ties that, in spite of grave constitutional objections, to the astonishment of his friends, he was for admitting them at once into a subsequent session of this same Legislature.

From this we now pass to another subject. At that time the spirit of speculation permeated our people; the railroad boom had just reached our borders, and with it came the rage for paper money. I once heard Governor James Barbour, of Virginia, in addressing his former constituents of old Albemarle, thunder out, in that sonorous voice of his, the following prophecy: "Fellow-citizens, if you cut down a big persimmon-tree in your fields, a thousand sprouts will spring from its stump; and so will it be with us financially if you destroy the great Bank of the United States. Your State banks will rise by thousands on the stump, and will flutter their worthless leaves all over the land." The prophecy was literally fulfilled. Banks here were chartered *per se*. Railroads with banking privileges were incorporated, and when the banks got into operation the road was quietly "switched off," and left the bank in full sway. The people and the Legislature seemed to have been seized by alchemists' idea that by an act of Legislature they could *transmute* paper into gold.

The grand climax in this delusion in our State was the charter of the Union Bank. In the lower house, forty-seven voted in its favor and only seven against it. The names of the seven ought to be preserved in history: they were Cunningham, of Pike; Ellis, of Jones; Horne, of Wayne; Magee; Monette, of Hancock; Pendleton, of Lawrence; and Thomas. McNutt voted against it in the Senate.

A fellow-student of mine at the University of Virginia met me on the steps of the rotunda at the time and exclaimed,—

"Your State is ruined!"

"How so?" said I.

"Your Legislature has just chartered a bank with a capital of fifteen millions of dollars."

With the heedlessness of a boy I scouted the evil foreboding; but long years after I remembered the school-boy prediction when I heard Prentiss, all in vain, ring out the slogan-cry to save my State from repudiation.

I do not find in the recorded vote upon the Union Bank bill that Prentiss voted at all, nor can I find in the journals whether or not he opposed it, but presume, as Whigs and Democrats sang truce on the theme, that he too fell beneath the siren song of the hour. He was wise enough, however, to foresee the danger of creating so many banks; he deprecated and ridiculed it, and used his best endeavors to put a stop to it. "Ay," said he, in a tone of withering sarcasm, "you will go on from bad to worse in this wild way of legislation until, to cap the fraud climax, you'll charter every man's breeches-pocket into a banking institution and make shirts a legal tender." In spite, however, of his warnings the Legislature still continued to *increase, multiply, and replenish our State with banks.*

He heartily joined in the efforts to build up the railroads in our State. He was never a narrow-minded politician, and was perfectly free from localism and sectionalism. He always went heart and soul into any scheme for the good of his country,—his *whole* country. He gave an illustration of his liberality in this respect by advocating the locating east of Pearl River in this State the great trunk railroad from North to South. His reason for this was that the West was already provided with transportation by the great river on her border, and that the East was entitled to the *iron river*, which would open her commerce and her vast timber wealth to the markets of the world.

We have already seen that he was opposed to the constitution as adopted; an effort was made at this session to amend it by calling another convention; this he supported with his usual zeal and fiery eloquence, but the measure failed. We shall soon see, at the adjourned session, how manfully he stood by the constitution as ordained, and that, too, in spite of the warning of friends that his course would inevitably mar his future political prospects.

A measure was also brought forward to establish a "*separate court of criminal jurisdiction*" for the Western District of the State. This was referred to the Judiciary Committee, and the following report from him, as chairman of the same, being one of the very few specimens of Prentiss's pen-labors, is given *in extenso*. It is valuable, not only as showing the clearness of his

style, but also as an historical paper of the state of society at that time, exhibited by one who was himself a conspicuous actor on the stage :

“ Mr. Speaker :—The Committee on the Judiciary, to whom was referred a resolution of this House instructing them to inquire into the inexpediency of establishing in the counties of Warren, Claiborne, Jefferson, Adams, and Wilkinson a criminal court of inferior jurisdiction, ask leave to report :

“ That they have taken the matter embraced in said resolution under serious consideration. They have arrived at the conclusion, after mature investigation, that the establishment of a criminal court within the counties embraced in the resolution will be of material benefit not only to those counties, but to the State at large. Your Committee will state some of the reasons by which they have been drawn to this conclusion : The Mississippi River, which washes the western boundary of our State, mingles with the innumerable benefits it bears to our borders some evils, not the least of which is that it has become the great thoroughfare of vice and crime as well as of wealth and enterprise ; villains of every description, outlaws from other States, refugees from justice, thieves, robbers, and banditti of all sorts are continually floating upon its current, and collect in the towns and villages upon its banks like drifting wood in its eddies. The western counties of our State are peculiarly subject to these visitations, hence there is committed within them a greater amount of crime than in all the rest of the State. Probably two-thirds of the violation of our penal laws occur within the river counties, which are those embraced in the resolution. The importance of a speedy and certain execution of the laws within this district of country must be apparent to all. Under the present arrangement, by which civil and criminal business is thrown together in the same court, this object has not been attained. So great has become the amount of crime that in some of these counties it is not unfrequent to consume in the trials of criminals alone more than two out of the three weeks appropriated to the court. This necessarily interferes with the civil business. The civil and the criminal docket interfere with each other, and in the conflict both suffer. In the anxiety to get at the civil business prosecutions are hurried through carelessly and ineffectually. By the organization of a district criminal court these difficulties will be obviated, more attention and care will be given to the prosecution of offences, and, of course, punishment will oftener follow the footsteps of guilt. Such a court will also be a greater terror to evil-doers than those under the present organization, and it will not only punish more effectually, but will, for that very reason, deter many of those classes above alluded to from coming within its reach. This court will be greatly beneficial to other portions of the State as a sort of a frontier guard, a barrier against the inroad of vice, a levee against the overflow of crime.

In addition, your Committee would observe that they have no doubt that the amount which the State has to pay annually on account of ineffectual prosecutions, and for other causes arising out of the present system, would exceed the annual expense of a separate criminal court. These are some of the reasons which have influenced your Committee in arriving to a conclusion favorable to the object of the resolution, and in accordance therewith they have instructed me to report a bill to be entitled An Act to establish in the Counties of Warren, Claiborne, Jefferson, Adams, and Wilkinson an Inferior Court of Criminal Jurisdiction."

The bill was passed, and became a law. The court existed for a brief while, but was abolished after having survived long enough to answer the objects of its distinct creation.

Another question of vital importance brought before the body by the governor's message was the right of the State to the *sixteenth sections*, and the five per cent. of the sale of the lands embraced in the treaties made by the United States with the Chickasaw Indians. This subject was specially referred to the Judiciary Committee, and brought forth an elaborate report on the 13th of February, 1836.

In reading this, one here and there perceives the doctrine of "State rights" glinting out,—a doctrine which, though scouted in a *general way* by some States, will in those very States crop out if they happen to be the particular subjects of Federal encroachment. As a bishop once said, in discussing whether or not some other bishop was *high* or *low church*, "You'll find all of them high enough if you only run *against* them." Union-loving Massachusetts avowed once the doctrine, and in this report we shall see that Mississippi was not one whit behind her, but, even at this early day, was counselled to stand up to her constitutional rights.

The report,* from the pen of Prentiss, speaks for itself, and, like the preceding one, gives a great deal of historical information, which Mississippians at least ought to know :

"Mr. Speaker:—The Committee on the Judiciary, to whom was referred so much of the late governor's message as relates to the treaties with the Chickasaw Indians, and the rights of this State to the sixteenth sections, and the five per cent. upon the sale of the lands embraced in said treaties, ask leave to report :

* Page 304 of Journal, February 15, 1836.

"That they have approached the subject submitted to their consideration with no ordinary degree of anxiety and solicitude. It involves questions of the highest magnitude, such as seldom occur, and which require to be treated with much delicacy. Whether the United States, in their treaty with the Chickasaw Indians, have disregarded the rights of this State, and violated their compact both with this State and Georgia, is indeed a grave question. Equally so is that which will arise in relation to the *remedy*, should we arrive at the conclusion that our rights have been *sacrificed*. Thus impressed with the importance of their duty, your Committee will proceed to the investigation.

"By articles of agreement and cession entered into by the United States and Georgia, A.D. 1802, the State of Georgia ceded to the United States, under conditions and stipulations therein contained, all her right, title, and claim to the jurisdiction and soil of the land lying between her western boundary and the Mississippi River, including the present State of Mississippi. Among the conditions of said articles is one that the lands so ceded should be held as a common fund for the use and benefit of the United States, Georgia included, and should be applied to no other use or purpose whatever. There is also another stipulation: that should the United States, after a lapse of one year, cede any part of said lands on account of any claim laid thereto, other than those recognized in said articles, then the cession of Georgia to the right of the lands thus ceded should be absolutely null and void, and said lands should revert to Georgia.

"Afterwards Congress, by an act passed March 3, 1803, reserved sections number sixteen in each township for the support of schools within the same, which reservation has been reasserted by various other acts, and has been universally recognized as a direct and irrevocable grant for the uses above mentioned of section number sixteen in every township of land embraced in said ceded territory, not then otherwise disposed of, and in which the United States had the right of soil at the time of the grant.

"By an act of Congress passed March 1, 1817, provision was made for admitting a portion of the ceded territory comprising this State into the Union, and the State when formed was to be admitted on the same footing with the original States in all respects whatever.

"By the fourth section of this act, however, the convention was by an ordinance to relinquish all right or title to the waste or unappropriated lands in said territory, and the same were to remain at the sole and entire disposition of the United States, and to be exempt from taxation in the hands of the United States for five years after the sale thereof.

"By the fifth section of the same act five per cent. of the net proceeds of the lands lying within said territory, and which should be sold by Congress from and after the first day of December then next ensuing, after deducting expenses of sale, was reserved for the use of the State, to be appropriated to the construction of roads and canals.

"Our State, by an article appended to the constitution and passed by the convention, accepted the act of Congress, with its conditions and stipulations, which, of course, from the moment of its acceptance became the conditions and stipulations of a contract equally binding upon both parties thereto.

"Such is a brief history of the various enactments which have relation to our claims upon the territory embraced within this State. It is here worthy of remark that the articles of agreement and cession fully recognize the rights of Georgia not only to the jurisdiction over, but to the right of soil in the land, and they convey as well the claim to jurisdiction as the right of soil itself to the United States. Upon this point, to wit, that the right of soil in the ceded territory has ever since the cession existed in the United States, and not in the Indian tribes inhabiting the same, depends the question of our legal claim to the sixteenth section in the Chickasaw country.

"Reservations are grants, as such they have always been construed by legislative bodies and judicial tribunals. A legislative grant is a compact equally absolute and binding as if made by an individual. The reservation or grant of the sixteenth section in the act of the 3d of March, 1803, was an absolute unconditional grant for the uses therein mentioned of the sixteenth section of every township within the ceded territory, with the exception contained in the act, so far as the United States had at that time the power to make such grant. If the rights of soil or fee-simple was in the United States, then the said act entirely divested them of title, and so soon as the sixteenth section became designated or located in any township by actual survey the full legal title thereto became *fixed in the State*, or the *trustees appointed for that purpose*, and such title relates back and takes effect from and by virtue of said act of the 3d of March, 1803. If this be correct, then no subsequent act of the United States, either by treaty or otherwise, could *divest* our *vested rights*, and any grant or sale by them of the ceded territory could only convey the same subject to our lien upon the sixteenth section, whenever ascertained by actual location and survey.

"Had, then, the United States, at the time of granting the sixteenth section, the right of soil or the ultimate fee in the lands embraced in the Chickasaw country? Undoubtedly they had, unless it resided in the Indians. But this doctrine has been well settled. By the law of nations wandering tribes of savages are not considered as having any fee or seisin in the lands over which they roam.

"By the universal consent, at least of all the Southern States, the Indian tribes within their limits are not recognized as having any other title to lands than that of mere occupancy, the right of soil residing in the State or in the United States. This position is also sustained by repeated decisions of the Supreme Federal Court. In the case of *Fletcher v. Peck*, 6 Cranch, it is decided that the nature of the Indian title is not such as to

be repugnant to a seisin in fee on the part of the State within whose bounds the lands may lie. Subsequently, in the case of the Lessee of Johnson v. McIntosh, 8 Wheaton, the same tribunal decides that the right of soil in lands occupied by the Indians resides in the sovereign, that the Indians have the mere right of occupancy, and that their lands are subject to be sold even while in their possession. This is the true and acknowledged doctrine, and such as this State has always maintained.

"Your Committee feel authorized, therefore, in laying down the following positions:

"First. The right of soil or ultimate fee in the lands embraced in the treaty with the Chickasaws resided originally in the State of Georgia.

"Second. By the articles of agreement and cession that right of soil became vested in the United States.

"Third. By the act of March 3, 1803, the United States granted the same right of soil in every sixteenth section in trust for the use of schools, which grant was as absolute and binding, and conveyed as much title, as the grant from Georgia to the United States.

"If these positions be correct, and your Committee do not think they can be contradicted, the conclusion is inevitable that this State has always had a vested legal right to the sixteenth section, which right would be affected by no act on the part of the United States. Your Committee will now proceed to examine how far this right has been respected by the treaty with the Chickasaws referred to their examination.

"This treaty was made at the city of Washington on the 24th day of May, 1834, between the United States and the Chickasaw Indians. In relation to its provisions, it is sufficient to state that the whole Chickasaw country, containing about six millions of acres of the fairest portion of this State, is disposed of without a single reference to *our claims* upon the school sections. The right of the Indians to the soil itself is recognized, large portions of the lands are reserved to them in fee-simple, and the remainder, by provisions of the treaty, is to be surveyed and sold by the United States as trustees for the Indians, to whom all the proceeds of such sales are to go, without any reservation to the State of her portion of such proceeds, to wit, five per cent. secured by the compact under which this State became a member of the Union.

"Your Committee will not stop to indulge in any crimination in relation to the manifest injustice of this treaty. They will simply state what violations of right and of compact they conceive to be involved in its provisions.

"First. This treaty violated the compact with Georgia. By that compact the United States received the right of soil from Georgia, and bound herself to hold the lands so conveyed as a common fund for the use of all the United States. By this treaty she has repudiated the title derived from Georgia, recognized the right of soil to be in the Indians, and, instead of holding said land as a common fund, has surrendered them, to-

gether with all the proceeds, to the Indians, who had not the right of soil nor any title, except that of occupancy.

"Secondly. Said treaty violates, or rather attempts to violate, the grant made by this State by the act of 1803 of the sixteenth section of each township for the use of schools.

"Thirdly. Said treaty violates the express compact under which this State became a member of the Union. By that compact, as before stated, five per cent. upon the net proceeds of the sales of public lands was reserved or granted to this State. The Chickasaw treaty violates this compact *in toto* by surrendering a large portion of the lands, and by appropriating, without any regard to the five per cent., the proceeds of the remainder. This reservation of the five per cent. upon the proceeds of the sales of public lands within this State must not be understood as a gratuity; it is the *stipulation of a contract founded upon ample consideration*. The act under which this State came into the Union proposes to admit her upon the same terms and upon an equal footing with the original States. Such, however, is not the case. The original States always possessed and exercised, as incident to their *sovereignty*, the power of taxing all lands within their jurisdiction. The act for the admission of this State, on the other hand, compels her to enter into a contract with the United States, by which contract it is stipulated, on the part of this State, that she surrenders to the United States any claim she may have to the waste and unappropriated lands within her limits; and, further, that she will not tax lands the property of the United States while in the hands of the United States, or for five years after the sale thereof. In the same contract it is stipulated, on the part of the United States, that *this State shall be entitled to five per cent. upon the proceeds of sale of said lands*.

"Now, these stipulations were manifestly made in consideration of each other. This State would never have so far parted with her *sovereign right* to tax the property within her jurisdiction except in consideration of the compensation she was to receive in the five per cent. upon the proceeds of the sale of those very lands she had exempted from taxation. Your Committee are decidedly of opinion that by a fair construction of the compact the five per cent. was *intended by the parties* to be in *lieu of taxation*, and that consequently both the legal and equitable construction must be that all lands exempted by this compact from taxation were subject to the reservation of the five per cent. upon the proceeds of the sale thereof. Your Committee further conceive that any donation, grant, or reservation of said lands without provision to compensate this State for the five per cent. to which she would have been entitled upon a sale as a manifest violation of the contract. It is evident that said contract does not contemplate any other disposition of the public lands than by a *bona fide sale*, coextensive with the exemption from taxation. By the Chickasaw treaty both the letter and the spirit of the contract are violated. In the sales which

actually do take place our five per cent. is not reserved, and the reservations permitted in said treaty are equally destructive of our rights.

"Your Committee wish it to be distinctly understood that they conceive reservations and donations of the public lands as much a breach of contract on the part of the United States as an absolute withholding of the five per cent. upon actual sales. They look upon the stipulation that this State should have five per cent. upon the proceeds of the sale of the public lands as an implied contract to sell said lands, and *not to give them away*. This observation will extend equally to the donations and reservations embraced in the Choctaw treaties.

"And now your Committee, having exhibited their views of the *rights of this State to school sections* and to five per cent., and having shown that these rights are wholly disregarded by the Chickasaw treaty, will proceed to the more important part of their duty, to wit, the consideration of the *remedy*. In relation to the sixteenth sections, provided your Committee are right in the views they have taken, there can be no difficulty. Your Committee have already stated that they view our claim for the sixteenth sections a *vested legal right*, which has existed as such ever since the act of 1803,—such a right as it was totally out of the power of the United States to touch or affect by their treaty with the Chickasaws. Your Committee are therefore of opinion that this State has at this time a vested legal title in fee-simple to the sixteenth sections of every township in the territory embraced in the Chickasaw treaty, even though such sixteenth section has been sold by the United States or embraced in an Indian reservation.

"Your Committee would recommend that *we assert at once our claim by authorizing and directing the trustees of school lands in each township of the Chickasaw territory to take immediate possession* of such sixteenth sections as may be vacant, and to *institute suit* forthwith before the proper tribunals for such as may be held adversely to such trustees.

"In relation to the proper course to pursue in asserting our claim to the five per cent., your Committee have felt more hesitation; but after the most mature consideration they have come to the decided opinion that we ought to adopt the course recommended by the governor, to wit, *taxation* of the Chickasaw lands. There are various reasons why this should be done. In the first place, it is the most *dignified and honorable course*. We have decided that our rights have been violated; we have two courses to pursue: one is to take a just, legal, and proper remedy, which is *within our hands*; the other is to *petition for relief* the very power that violated the right. Your Committee cannot recommend to a *free and sovereign State the latter course*. Rights are to be *demand and enforced*, not *petitioned* for. Besides this, your Committee are informed, application in relation to this matter has already been made in vain to the Federal government.

"Your Committee will proceed to give their reasons for believing the *taxation* of the Chickasaw lands to be the most proper, effectual, and

peaceable remedy. It is a well-established principle of international law, as well as of private policy and expediency, that where there are mutual stipulations and one party is guilty of a violation of a contract, the proper remedy for the other party is a refusal to perform the stipulations on his part. No one will doubt the stipulation on the part of this State, not to tax lands the property of the United States, was made in consideration of the stipulation on the part of the United States that the State should receive five per cent. on the sales of said lands. If, then, the United States pleases to violate the contract and part with six millions of acres of the lands embraced in the stipulation, surely it is not improper for this State also to abandon the contract to the same extent. If the contract is abandoned, then the original right of taxation comes in, not as a *new remedy*, but simply as placing the *parties in statu quo*. The remedy, then, advised by this Committee is simply to permit the contract to be abandoned, so far as the United States have chosen to abandon it, and to consider the Chickasaw lands as if no contract had ever existed in relation to them. Of course, then they would be subject to taxation like other lands within the jurisdiction of this State.

"There is another consideration in favor of the course adopted by the Committee. The United States, as before stated, have in the Chickasaw treaty in substance repudiated the right of soil in themselves, and have in part recognized it as existing in the Indians. But this State only stipulated not to tax lands the property of the United States. This stipulation does not extend to land the property of the Indians. The United States, then, by this very treaty are estopped from claiming exemption of these lands from taxation as their property.

"Your Committee, in conclusion, recommend to the Legislature forthwith to enact such laws as may be necessary to subject the lands embraced in the Chickasaw treaty to taxation like other lands within the State."

The consideration of the question was finally laid upon the table on the 24th of February, 1836, and there it slept in the tomb of the Capulets.

At this session the great Mississippi statesman, Poindexter, who might well be styled its Solon, went down before the popular storm. Prentiss clung to him to the last, but on the fifth ballot for United States senator Robert J. Walker received forty-four votes, Plummer eighteen, Poindexter twelve, and Wilkins four, and so the man in whose office Prentiss read law before was elected to the exalted position.

There grew out of this election grave charges against a certain State officer,—that of subornation, in bribing the vote of

a certain member. This led to a long and bitter controversy, in which Prentiss took the ground that the House, like Cæsar's wife, "must be above suspicion." A special committee was appointed, but, in consequence of more pressing matters, they pleaded want of time, the impossibility of taking testimony, etc., and so they were discharged.

Omitting the notice of the other important questions in which Prentiss figured conspicuously, we shall note one of a religious character, bearing upon the local status of the capital, as showing how he felt on sacred themes.

Mr. Williams presented a petition from Mr. Campbell and other citizens of the town of Jackson praying for a donation of a lot of ground in the town, to be dedicated to the erection of a chapel, free for public worship, for the use of all denominations of Christians. The petition was referred to a special committee, and when they made a report in favor of granting it it was met by all sorts of weapons, the chief of which was ridicule; it was tried to be literally *derided* out by *riders*.

During its discussion Prentiss came in. On hearing what was the subject under consideration he rose to speak. Every one knew that he did not pretend to be a saint, but none knew on which side would fall his stout arm. No full report of what he said has come down to us, but from that which has escaped decay, like Cuvier with his fragment of bones, we can frame a skeleton sketch. The beautiful thoughts may have been inspired by the remembrance of the pious teachings of his mother or the recollections of the old "Union Chapel," the free church of Pleasant Hill.

"Remember, Mr. Speaker, we are not legislating for our brief day only, but for future generations. The capitol we are building will outlast our fleeting lives. Religion, ridicule it as you may, is the great balance-wheel that keeps the vast machinery of society in its proper working order; it builds the home as well as the state.

"You know, sir, how rapidly our country is being filled. Side by side with the youth who comes to better his fortune there stalks the adventurer, whose vampire mission is to suck out the life-blood of others. Imagine, sir, on some bright Sabbath morning a noble youth standing on these streets, with nothing but his own sad thoughts crowding upon him. He is weary with watching for coming fruition that hope once

promised him. By his side there comes the tempter to lure him into those dens upon whose lintels ought to be written the motto upon the portals of Dante's Inferno, 'Who enters here bids hope farewell.' Suppose, sir, that just as the voice of the tempter is whispering in his ear there breaks upon it the sweet symphony of the church-going bell, that mingles the chimes of earth with those of heaven. The chime brings to mind the sweet memories of childhood and the dear ones of his far-distant home. At that hour they may be in the house of God, and the unseen messengers of returning prayer may even then be hovering over him to whisper sweet suggestions. Moved by the symphony of the Sabbath bell and its blended memories the boy turns from the tempter, turns from the path to the gambler's hell to the portals of the Christian's heaven, and is saved. In after-time he may live to be the pride of his people and an honor to your State. Let us, by all means in our power, foster true religion in this the capital of our State."

The effect of the speech was very marked, and saved the bill from defeat. It turned the tide in its favor, and it passed the lower house, but slumbered in the Senate, and was not taken up again till the succeeding adjourned session. As far as I can judge from the journals, the measure was modified, and a distinct lot in the plot of the city was assigned to each of the Christian denominations. Thus Prentiss's speech of 1836 ripened into fruition, and may we not hope that the hypothetical case stated by him has been realized over and over again?

I shall close this epitome of some of his prominent acts during this session of this Legislature by an anecdote related by his fellow-member, Prosper K. Montgomery, from Jefferson:

"One day he" (Prentiss) "was addressing the Legislature on an important question, and, as usual, was electrifying the House, when suddenly, like a thunder-clap in a clear sky, a huge bulk of plastering fell into our midst, right upon the glistening bald head of Hoops, of Claiborne. In a moment all was confusion; every member sprang to his feet. Hoops and the balance thought there was a young earthquake, and some sprang for the windows, others for the doors. Lime-dust filled the room, and there was, so to speak, a general consternation. But in the midst of it there was one who stood erect, calm, and unmoved, and that one was Prentiss.

"It was a while before order was restored, for, although Legislatures are used in a general way to *whitewashing*, this was too

big a dose for the body. As soon as order was restored, Prentiss resumed his argument just where he had been cut off by the accident, and continued it to its close just as forcibly and brilliantly as though he had not been interrupted. The flurry of the House was soon absorbed by the charms of his eloquence."

In sketching these incidents, which show Prentiss's self-possession in trying circumstances, it must not be forgotten that at this very time he was in full practice in the courts in Jackson. He would attend court, make an argument, and then come into the House. Without taking his seat he would inquire as to what was under consideration; if it was some important question he would immediately launch out in one of his brilliant efforts, each effort seeming more striking than its predecessor. When it was important to talk against time, as is sometimes done in parliamentary bodies to save a measure, and he saw the House growing listless, he would wake them up by a sally of wit, and then hold them by his thunder.

In allusion to the fearful accident when Prentiss had swallowed a piece of glass, which nearly cost him his life, a friend consoled with him, and also expressed gratification at his recovery.

"Oh," said Prentiss, in reply, "I'm all right again; my throat has been *rifled out*, and I can speak more fluently than ever."

"I protest," rejoined his friend, "against any more facility being given you in that line; you have already been too highly gifted."

In those days, as in these, during the hours of recess in the House, "the boys," so to speak, had their fun by caricaturing whatever of ludicrous had happened in their body. Of course, here Prentiss was in his element, for his wit was as sparkling as the light of a diamond. It seems that on one occasion a speaker on the subject of the public welfare was dreadfully lugubrious concerning a negro insurrection, and wound up the climax of desolation somehow thus: "The fact is, Mr. Speaker, I warn you, sir, we are in imminent danger. It is our duty to be prepared, sir; it is our duty to watch and pray, to watch and guard, sir; for if we do not, then, sir, on some serene night,

wrapped in the peaceful arms of Morpheus, we may *wake* in the morning and find ourselves *dead*!" The solemnity of the closing sentence squelched for a *moment* a burst of uncontrollable laughter, but it was not long in coming with a roar.

The next day a *mock House* sat on that speech (the orator, of course, being absent). It was rehearsed in all its drollery, and convulsed the hearers. In the midst of the uproar Prentiss rose,—

"Mr. Speaker, I move to amend the last syllable, of the last word, of the last line, of the last speech, by adding thereunto the word *drunk*."

"I second it," shouted a member.

"Mr. Speaker, sir, this is *necessary* for the sense; for, for the life of me, I can't see how a dead man can wake up after he has been kilt by the niggers."

The merriment occasioned by this sally beggars description. In the midst of it in walked the orator himself. He saw what was up. His wrath began to gather, and the meeting, Montgomery says, began to dissolve *without a motion* to adjourn. The Speaker seized the mace and called the House to order just in time to prevent a row.

Montgomery gives another instance of Prentiss's ready wit. An important bill, gotten up, it was thought, for party advantage, was improperly and irregularly sent down to the House for concurrence. Prentiss at once detected the design, and was branding it as it deserved. Just then a whiff of wind came and wafted all the papers of the bill clear out of the window into the street. "I am not surprised at this, sir," said he, without losing a stitch in his argument. "The very wind of heaven seems to be conscious that this proceeding is unwarrantable and illegal, and speaks out plainly in its condemnation. It, sir, has called the bill *from the table and indefinitely postponed it*."

After a long and tedious session of three months the Legislature adjourned over, to meet in the succeeding January.

CHAPTER VIII.

IN the year 1836, during the recess of the Legislature, the *eleven* so-called Chickasaw counties were duly organized under the act of February 9, 1836, before alluded to. The question was at once mooted among them as to their right of representation in the lower house. The clauses that bore on the subject were,—

First. The ninth section of the third article, which prescribed that the Legislature, at its first session, should cause an enumeration to be made, and every four or six years thereafter up to 1845, and after that at not less than four nor more than eight years, of all the free white inhabitants of the State; and the whole number of representatives shall at the several periods of enumeration *be fixed* by the Legislature, and apportioned among the several counties, cities, or towns (entitled to separate representation) according to the number of free white in each, and shall not be less than thirty-six nor more than one hundred. "*Provided, however, that each county shall always be entitled to one representative.*"

Second. The sixth and twenty-ninth sections of same article fixed the first Monday of November, 1833, and the day following, and triennially thereafter, as the day of the general election.

Third. The fifth section of same article declares the members of the House shall be chosen by the qualified electors, to serve for two years from the day of the commencement of the general election.

Fourth. The eighteenth section of same article declares that when vacancies happen in either house "the *governor*, or person exercising his powers, *shall issue writs of election.*"

Sixth. Section 14, Article 5. All vacancies not provided for in the constitution may be filled as the Legislature may prescribe. Twenty-eighth section, same article. County officers may be indicted for malfeasance.

From the above synopsis it is apparent that to before me, county to a representative two "conditions precedent" were prescribed: first, an *enumeration* of the free white inhabitants, and, second, an *apportionment* of the number of representatives. And if a *vacancy* was to be filled the governor was to issue the writs of election. Bearing the above synopsis in mind the reader can better appreciate the subsequent debate.

Whether the counties had applied to Governor Lynch to issue writs of election to *supply the vacancies*, as they contended, we cannot say, but the presumption is that he was inquired of, and that he had concluded that he could not do so, as there was really no vacancy; and the proviso of the ninth section prescribing that each county should have one representative did not cover their case. The governor's message alludes to the question. Be this as it may, the *new* counties were determined not to be foiled, and accordingly, after they were organized, the *boards of police* issued writs of election; the election was duly held, and ten representatives were returned as elected.

The adjourned Legislature again convened on the first Monday of January, 1837. Speaker Irwin took the chair, the members appeared and took their seats, and those members who were elected to fill *unquestioned* vacancies also appeared and were sworn in.

On its being announced that the House was ready for business, Bingaman, of Adams, moved "that the members elect from the counties organized at the session of this Legislature" (naming the twelve Chickasaw counties, including the county of Newton, which was not a *Chickasaw chicken*, but had been carved out of the counties of Scott and Lauderdale) "be invited to present their credentials and take the oath of qualification." This motion fell like a bomb-shell in the House; it exploded, and at once raised a storm of discussion, which lasted till past one o'clock, when the House took a recess until three o'clock. On meeting, after some routine business was disposed of, the subject was again called up, and the fires of debate waxed yet hotter. No conclusion was reached, and, after a stormy discussion, the House adjourned till next morning.

Prentiss at once saw the danger of such a precedent, and

immediately denounced the measure as utterly unconstitutional. When the Legislature met on the second day he showed his knightly courtesy by moving, "That the gentlemen claiming seats be invited to take seats within the bar of the House during the discussion of the question as to whether or not they be entitled to seats as members." This motion was unanimously adopted.

The debate on the question was again resumed, and occupied the House till the adjournment at twelve o'clock, and again from three o'clock to the rest of the day. It was resumed on the following day, and raged fiercely for five days. It was during this five days' discussion that Prentiss made the great speech, which we copy from the "Memoirs":

"I had hoped, Mr. Speaker, when the gentleman from Adams introduced the resolution which has just been read, that the task of opposing it would have been assumed by some one more able than myself. Had this been the case, I might have been contented with a mere vote. But viewing this resolution in the light I do, I should violate every sense of duty were I to remain silent because others will not speak. Sir, the gentleman from Adams seems to think that the resolution is a matter of course, and ought to pass *sub silentio*. I differ from the gentleman. He cannot so easily introduce this Trojan horse within these walls; I, for one, will hurl a spear against its hollow sides. Sir, I look upon this resolution as a bomb-shell thrown into this House. The gentleman from Adams has lighted the match, and if this House do not extinguish it—if the heel of the majority be not placed upon it—there will be left by its explosion no vestige of the constitution or law. It may appear to the common eye as 'a little cloud no bigger than a man's hand,' but the political prophet will behold in it the ingredients of a tempest.

"I know I labor under many difficulties in opposing it. Popular opinion is in favor of it. The gentleman has the wind full in his sails, while I must row against an adverse current. I trust, however, that the very fact that the course I am taking is one upon which the public eye will scowl may afford a guarantee of the honesty of my motives. I know it will be said that I am an enemy of the new counties; that I am hostile to the rights of the people; that I am opposed to democratic principles, and other similar aspersions by which demagogues answer arguments. Sir, I *throw down in advance my denial to such charges*. No man in this State feels a livelier interest in the prosperity of the new counties than I do. No man has watched with greater pleasure their rapid increase in wealth, population, and power, and did not my oath to support the constitution stand in my way, no man would welcome their delegation with a

warmer greeting. But, sir, I have high constitutional duty before me, from the performance of which I *will not be deterred* by either *fear* or *favor*, by what has been *said of others* or what *may be said* of myself.

"I am opposed to the resolution of the gentleman from Adams on two grounds: First. That under the constitution the counties embraced in the resolution have not a right as counties to representation in this House at *this session*. Secondly. That even if they have a representation, the persons claiming seats have not been constitutionally elected.

"We will proceed, then, in the first place, to examine the right of the new counties to representation at this session of the Legislature. I start with this proposition: that the right of representation must be derived from the constitution and the laws made in pursuance thereof. Gentlemen have talked of the natural right of representation as if it were something existing beyond and independent of the constitution. Will gentlemen be so good as to explain to me what they mean by the term? I understand the right of representation to be merely a conventional right. It has its origin solely in the constitution. It is *entirely* the creature of compact. By the constitution of some States it is based upon a combination of property and population combined, in others upon population alone. A natural right of representation is an absurdity.

"Let us look, then, into the constitution of this State and see what are its provisions in relation to representation. The first great principle is that it is based upon population alone; property, by our constitution, cannot be represented. The next provision relates to the *mode* in which this general right of representation shall be exercised. If the right existed only in general terms, without any *mode* pointing out how it should be *apportioned* or *exercised*, it would be perfectly nugatory. How could a general provision giving the right of representation to all the free white population of the State be carried into effect unless there was also a provision *parcelling* it out to different portions of the community, and *directing the mode of its exercise*? A constitution having no such provision would be still-born. It would have no *vitality*; no government could be set agoing under it. Our constitution, however, is not obnoxious to these remarks. It contains within itself ample provisions for enabling the people to avail themselves of their general right of representation. The convention which framed the instrument provided in the fifth section of the schedule for the first legislative or representative body specifically, directing *how* the election should be conducted; and, mark you, Mr. Speaker, especially directing that writs of election should be issued by the president of the convention. The sixth clause of the same schedule says, '*Until the first enumeration shall be made as directed by this constitution the apportionment of senators and representatives among the several districts and counties in the State shall remain as at present fixed by law.*'

"Let us examine for a moment what limitations there were to the

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powers of the first Legislature in relation to its organization, for it will throw some light upon the main question in controversy. Could that Legislature before an *enumeration*, even by a joint action of both houses, have *increased* at that session the *number* of senators or *representatives* beyond the number and apportionment which by law *then existed*? Has not the sixth section of the schedule above cited positively fixed the *number* of senators and representatives in the first Legislature, and *apportioned* them according to the then existing law? Is not the sixth section a constitutional organization of the first Legislature as to *numbers* and *apportionment*? Would not the admission of an additional number of persons into either branch, before an enumeration had taken place, have been a violation of that section of the schedule and a *disorganization* of the body? In other words, is not a change of constitutional *organization* *disorganization*?

"Now let us advance a step further, and see how the present Legislature came into existence, and what are the powers of its respective branches. Every Legislature after the first must claim its constitutional origin from the ninth and tenth sections of the third article of the constitution, which are as follows:

"Section 9. The Legislature shall at their first session, and at periods of not less than every four years, nor more than every six years, until the year 1845, and thereafter at periods of not less than four nor more than every eight years, cause an *enumeration* to be made of all the free white inhabitants of this State; and the whole number of representatives shall, at the several *periods* of making such enumeration, be *fixed* by the Legislature, and *apportioned* among the several counties, cities, or towns entitled to separate representation *according to the number* of free white inhabitants in each, and shall not be less than thirty-six nor more than one hundred. Provided, however, that each county shall always be entitled to at least one representative.

"Section 4. The whole number of senators shall, at the several periods of making the enumeration before mentioned, be *fixed* by the Legislature, and apportioned among the several districts to be established by law according to the number of free white inhabitants in each, and shall never be less than one-fourth nor more than one-third of the whole number of representatives.'

"Here are two sections of the constitution under which the present Legislature was organized, so far as the *number* of the senators and representatives is concerned.

"When this session of the Legislature commenced on the 1st of January, 1836, each senator came from a district to which the right of senatorial representation had been *previously apportioned* by law, and every representative took his seat by virtue of a law of apportionment giving to that portion of the country which he claimed to represent a right to that amount or portion of the representation. Did not the Legislature of the

State of Mississippi at the commencement of this session, to wit, on the 1st of January, 1836, comprise the whole representative power of the government under the constitution? and was not the whole free white population of this State represented at that time upon this floor? The number of the House of Representatives was sixty-four, which number had been fixed by an act of the Legislature passed in December, 1833; and that number was by this said act *apportioned*, in pursuance of the ninth section of the third article of the constitution, among the several counties of the State, there being, it seems, at that time no cities or towns entitled to separate representation.

"Now the gentlemen who have advocated this resolution admit that on the first day of this session this House consisted constitutionally of sixty-four members only, which sixty-four members represented all the free white population of the State. In other words, they admit that the same free white inhabitants, who now claim an addition of ten members, were at the commencement of this session fully and constitutionally represented on this floor. Has any vacancy occurred in the representation which they then had? I see my friend from Washington County in his seat. Whom did he represent at the commencement of this session? Every one knows that he represented the whole of the free white inhabitants of that section of country which now composes the counties of Washington, Bolivar, and Coahoma. Does he represent them still? No one will doubt his capacity to do so. I do not doubt his *right*. For what period of time was this power delegated to him? The constitution says for two years. Has that time elapsed? It has not! Yet I see in this resolution a proposition to admit another member on this floor to represent the free white inhabitants of Bolivar County. Now I hold that two men cannot at the same time constitutionally occupy the same office. Either my friend from Washington is no longer the representative of the free white inhabitants living in the county of Bolivar, who sent him here, or the gentleman claiming to represent the same people has no right to represent them. The electors living in the county of Bolivar have once voted for a representative in this session of the Legislature. He is here, and has not resigned any portion of the power delegated to him. I know of no constitutional right which the people of the county of Bolivar have to resume the power which they have delegated before the lapse of two years for which they have delegated it. I have instanced the county of Bolivar merely by way of illustration; the same observations will apply to others.

"At the commencement of this session this Legislature created thirteen new counties, and shortly after adjourned over to this winter. This adjournment was nothing more than an adjournment from day to day. We met here on the first Monday of January, 1837, the same body precisely in our constitutional organization as we were on the 1st of January, 1836. We have, with those who have been elected to fill vacancies, sixty-four

members. Our body is already full, and contains the whole representative power of the government which belongs to a House of Representatives. How, then, can we admit ten additional persons as members without parting with a portion of the power belonging to us? Have we a right to part with it? Can we give up to others a portion of our delegated power? If so, can we not give up the whole? Can a legislative department of the government act by proxy? It is said that each branch of the Legislature has the right to judge of its organization, and that from the necessity of the case this House has the right to decide whether the new counties are entitled to representation. I deny that this House, either under the constitution or from necessity, has any jurisdiction over this matter. I lay down two propositions, and challenge their refutation :

"First. That where the constitution has given any department of government the jurisdiction over a matter, and that department has, in pursuance of that jurisdiction, acted and finally decided upon such matter, no other department or portion of a department can revise or change such action and decision unless the constitution expressly authorizes such revision.

"Second. *One* branch of the Legislature of this State has no power to repeal or alter a law constitutionally passed by the whole Legislature.

"Now I assert that the question of the number of this House at this session, as well as the question of what counties members shall come from, has been acted upon and decided by a department of this government to which the constitution has given full and exclusive jurisdiction to decide upon the matter, and that consequently we have no right to meddle with it. I further assert that our action cannot make these gentlemen members unless this House has the *power by a simple resolution to repeal* an act of the Legislature constitutionally passed."

"The ninth clause of the third article just read expressly gives to the Legislature the power and the jurisdiction at periods of not less than four nor more than six years of fixing the number of representatives, who shall compose the *representative body until the next period* of enumeration, and also to *apportion* such number among the counties, cities, and towns entitled to representation. The Legislature, in December, 1833, did under this clause *fix* the number of representatives at sixty-four, which number they *apportioned* among the different counties. Was this law, when passed, constitutional? If so, when did it become unconstitutional? If it is still a constitutional law, what right has this House by a mere resolution to change or repeal it? That act of the Legislature fixed the number of this House for the present session at sixty-four. If we make that number seventy-four, is not this House *assuming* a power given by the constitution to the *whole* Legislature *only*? And is not this House *changing by simple resolution* a constitutional law? Again, by claiming the right to judge in this matter we deprive the Senate of a portion of their constitutional power. The Senate has as much power under the

constitution to change the number and apportionment of the House of Representatives as the House itself. Yet does any man doubt that a resolution of the Senate increasing our body by the addition of ten members would be a nullity?

"But the constitution has not intrusted to *either* body the power of judging of how many members it shall consist, or from what districts, counties, cities, or towns they shall come. This power is given to the Legislature, and that, *too, with the limitation* that it cannot be exercised oftener than once in four years.

"The conclusion to which this reasoning brings my mind is that neither branch of the Legislature has the *power to change* its organization as fixed by law, either in regard to the number of members which shall constitute the body or the right of representation from any particular territory.

"Our attempt to act alone in this matter is clearly an infringement upon the constitutional right of the Senate to partake in such action, and if that body view the matter as I do they will, upon the passage of this resolution and the increase of our number to seventy-four, be bound not to recognize us as a constitutional body. The Senate, in 1833, assisted in the organization of this House, as did the House in the organization of the Senate, so far as *numbers* and *apportionment* are concerned. Each of these bodies is therefore not only presumed but compelled to know what the constitutional organization of the other is in these *two* respects. It necessarily follows that each body is bound to notice when the other becomes disorganized and unconstitutional.

"There *are* some matters in relation to the organization of this House of which we are the *sole* judges, and which, after our decision thereupon, cannot of course be noticed by any other department. Thus the constitution makes each house the judge of the qualification and election of its own members. But it is clear that there must be in the first instance a *right* of membership before any question can legitimately arise on the subject of qualification or election. The jurisdiction over the subject of *qualifications* and *mode* of election is not a jurisdiction over the subject of the *right of representation*. It seems to me that the conclusion is irresistible that the organization of this House, so far as *numbers* and *apportionment* are concerned, belongs constitutionally to the whole Legislature, and the *further organization* as to questions of *qualification and election* belongs *exclusively* to the House. If this conclusion is correct the resolution of the gentleman from Adams is in direct violation of the constitution and law, and if carried into effect will *disorganize* and destroy this body.

"But the gentlemen say there is in the constitution an express clause giving to each county the moment it is created a right to at least one representative. As this is the *only* argument in favor of this addition to our numbers which *professes* to be drawn from the *constitution*, I will examine and test its force. I believe, however, Mr. Speaker, I am mistaken in saying it is the *only* argument drawn from that source.

"The gentleman from Adams has commenced one upon what he calls the corner-stone of the constitution, to wit, the first clause of the Bill of Rights, which declares that 'all men are free and equal.' In what manner the gentleman will bring this to bear on the question under discussion I am at a loss to know. I should imagine, however, that upon so broad a foundation it would require much labor and a long time to erect an argument.

"But to return. Even if there was in the constitution an express provision giving to each county the moment it is created a right of immediate representation, still the House has no power to act in the matter without the concurrence of the Senate. It requires a *legislative act to change the number* previously fixed by law. But I deny there is any such clause in the constitution as the one alluded to. I wish to be distinctly understood. I deny that there is any provision in the constitution which gives always to each county at least one representative.

"The words which have been so often and so triumphantly used in this debate, as giving to each county a right of representation at the moment of its creation, constitutes a *small portion* of a sentence, and instead of being a substantial provision, asserting a positive right, compose but a '*proviso*,' directing and limiting the power of the Legislature in the previous part of the sentence. The words as used in argument are, 'Provided, however, that each county shall be entitled to at least one representative.' Now this is a '*proviso*,' and the only way to ascertain its meaning is to look at the previous portion of the clause and see to what it applies.

"A proviso is a limitation of that which precedes it. It is not a substantive provision. It has no force or meaning *except* when taken in connection with the subject-matter which it limits, and to which it relates. What does this proviso limit and to what does it relate? I answer, unhesitatingly, that it limits and relates to the previous portion of the ninth section of the third article of the constitution, to which it is attached. What, then, is the previous portion of the ninth section? It is composed solely of directions to the Legislature on the subject of enumeration, and the fixing and apportionment of representation. This clause of the constitution does not assert anything of itself to which the proviso can attach; it is entirely directory. If it be not a limitation of the action of the Legislature, which is the subject-matter of the section, to what is it a limitation? To test this, let us throw out of the section all the direction to the Legislature, and see whether there is anything left to support a proviso. There is not a word of the clause left. This proviso, then, is a *limitation* of the action of the Legislature or it is a limitation on nothing. If, then, it is a limitation of the action of the Legislature, as directed in the previous part of the section, it can only operate as a limitation upon the powers of the Legislature when that *body proceeds to perform the acts which this section directs to be performed*. The proviso is *dormant until* the action of the Legislature *arouses* it. When the Legislature, under this

section, causes an enumeration to be made, it must then proceed to fix the number of representatives, and, having fixed the number, the Legislature is directed to apportion that *number* 'among the several counties, cities, or towns entitled to separate representation according to the number of free white inhabitants in each, and the number shall not be less than thirty-six nor more than one hundred.' Here is a limitation of numbers. Is there no limitation of the power of the Legislature in apportioning this number? There is. It is limited by this proviso: 'Provided, however, that each county shall always be entitled (by such apportionment) to at least *one* representative.' If this view of the subject is correct, then the proviso, which has been the watchword of the friends of the resolution, emblazoned upon the banner under which they have fought, will turn out to be nothing more than limitation of the power of the Legislature, binding that body whenever it makes an apportionment 'always' to each county in such apportionment at least one representative. Great stress has been placed by gentlemen on the word 'always.' I do not perceive the force of the argument on this point. If my construction of this clause is correct, the word 'always' relates to the time when the apportionment takes place be entitled to at least one representative.

"The creation or formation of new counties by the Legislature is not directed in that section to which the proviso which I have been discussing is attached. If, then, my previous argument is sound, the creation of a new county does not give it a right of representation until the time for a *new apportionment* comes round. Since the counties embraced in this resolution were created there has been *no enumeration* and *no new apportionment* of representatives,—the *constitutional period for that action of the Legislature not having yet arrived*. I am therefore forced to the conclusion that these counties are not constitutionally entitled, *as counties*, to representation on this floor.

"All those who have spoken in favor of the resolution, except the gentleman from Hinds (Mr. Dunlap), have predicated the claim of the new counties to representation at the same session in which they are created upon the proviso to the ninth section of the third article of the constitution. His decision is based upon a different reason, which I shall make bold to notice, not because I deem it of any weight, but because, to my *utter astonishment*, it seemed to have some influence upon the House. The gentleman from Hinds tells us that no question of constitutional or legal construction has ever embarrassed him so much; that after the most mature deliberation he came to the conclusion that the new counties had not a right of representation in this session of the Legislature. He says that he has expressed this opinion in public and in private, that it is recorded in his letters to his friends, and has been published to the world. The gentleman further told us that if the question had been taken yesterday he should have voted against the resolution, but that to-day he is prepared

to part with the cherished opinions of a year and accede to the claim of the new counties, to which claim he had so long been opposed.

"It seems that since last night a change has come over the spirit of his dream, the scales have fallen from his eyes, and a new light has burst upon his path, which shows him that he has been walking in the ways of errors. But I will not part with him so easily. We have travelled together so long and so lovingly in this matter that I must at least keep some memento of our companionship. Well, then, as I have *lost* the benefit of the gentleman's *vote* on the side which I advocate, I will *retain* his *opinion*. Though the *prophet* has been taken from me, I will hold fast his mantle, and thereby, perchance, I may obtain some of the inspiration. The gentleman's opinion against the resolution was deliberately formed, and continued till last night. His opinions in favor of the resolution have been formed in a hurry, and are but a few hours old. On which side, Mr. Speaker, would you consider the *weight* of the gentleman's opinions to lie? But I should do him injustice not to examine the reasons upon which he has based this sudden change. When the gentleman from Hinds informed the House of his change of opinion, and that he intended to give the reasons, I listened with open ears. I strove in vain to imagine what could be the worms which had thus in a single night eaten away the root of the gourd, the gourd which for a year had grown and flourished and waxed mighty, until many people were refreshed beneath its protecting shelter. Yesterday it was green and beautiful, and the stricken prophet reclined with joy beneath its umbrage. But to-day it is withered, and the hot sun beats unchecked through its leafless branches. The gentleman's reasons were few, but, unlike the silylline leaves, they did not increase in value as they diminished in number. Indeed, if I understood aright, he gave no reason for his change, but *only a precedent*; not an *argument*, but only an *analogy*. He says he changed his opinion upon this subject within the last twenty-four hours by *reflecting upon the State of Arkansas and the admission of her members upon the floor of Congress*. He seems to think it is *similar* to the case before this House, and, if I understand the mode of his argument, it is this: a law *passed last winter* in Congress *making Arkansas a State*. A law also passed *this Legislature* last winter *creating* the new counties. The Senators and Representatives from Arkansas have taken their seats at the present session of Congress, therefore the new counties are entitled each to an additional member on this floor. I remember but one piece of logic which can equal that of the gentleman from Hinds. It is to be found in the reasoning of the honest Welshman, who attempted to prove that Harry of Monmouth was like Alexander the Great. '*There is a river in Macedon and there is also a river at Monmouth. It is called Wye at Monmouth, but it is out of my brains what is the name of the other river, but 'tis all one. 'Tis so like as my fingers is to my fingers, and there is salmon in both.*'

"It is a pity that Arkansas came into the Union just at this period.

Had she put it off yet a little while, this excruciating *analogy* would not have been made. The gentleman's original opinion would have lasted a day longer, and I should have had the pleasure of his countenance in the vote which I am about to give. Will the gentleman permit me to say that my intellect is too obtuse to understand the force of his illustration? My faculties are too opaque to admit the light which so brilliantly illuminates his mind on the subject.

"I have attempted to show in the previous portion of my argument that the free white inhabitants of the new counties were *at their creation* and *now are* fully and constitutionally represented on this floor. Will the gentleman from Hinds be so good as to inform me whether Arkansas had, before the admission of her present members, any Representatives in Congress? The gentleman has shown us in what point the two cases are analogous. I will show him where they differ. The inhabitants of Arkansas when it became a State had no representation whatever in either Congress; the inhabitants of the new counties are already represented in this Legislature. The Senators from Arkansas were elected under a positive provision of the constitution, and one Representative was given or *apportioned* to it by the very law which made it a State. The persons claiming seats from the new counties were not elected under any clause of our constitution, nor did the law creating these counties give them any right to representation. The Representative from Arkansas was, I presume, elected according to the forms prescribed by the constitution and laws. So were not the persons from the new counties who claim seats here. The Arkansas delegation did not go into Congress at the same session at which the State was created. In the present case admission is sought at the same session at which the counties seeking it were framed. In conclusion, permit me to say there is no more similarity between which a State bears to the Federal government and that which a county bears to a State than there is *between the opinion which the gentleman has expressed to-day and the one which he entertained yesterday.*

"I have given the gentleman's argument more attention, perhaps, than it was entitled to. My excuse must be that, as far as I could understand, it was the only one he professed to offer. He has, it is true, advanced certain abstract propositions,—such, for instance, as 'that the people ought not to be deprived of their rights,' and others of a similar character, which I dare not deny; and, indeed, as they appear to be of a very reasonable import, and altogether democratic, I believe I am willing to admit them. The gentleman has also spoken very harshly of the constitution. He denounces it in no measured terms as the offspring of *ignorance* and *democracy*. Ay, Mr. Speaker, the gentleman from Hinds says this constitution is too democratic. I agree with him. I am one of those who opposed its adoption. Last winter, upon this very floor, I advocated the call of a convention to change it. It has not, however, yet been changed; and, so long as it is the constitution, *I have sworn to support it.* Ay, sir,

I, who have been so long considered its enemy, now stand by it in the hour of its utmost extremity. I call upon its friends to rally to its rescue, for its danger is great and its perils imminent. I see some of them who respond not to the call. Though they profess to be its friends, yet, Judas-like, they betray it with a kiss. But the gentleman from Hinds says it is too democratic. Sir, when he discharged this gun was he aware of the recoil? If this constitution is too democratic, *how democratic must he be who is willing to violate so many of its provisions to carry a popular measure?* Sir, this *too democratic* constitution is rank *Federalism* compared with some of the doctrines advanced by the gentleman from Hinds.

"But enough of this. I have given my views and arguments upon the right of the new counties to the representation which they claim, and have attempted to answer the prominent objections which have been urged on the other side. If my *answer* has been meagre, let it be attributed to the *paucity* of the materials furnished by the friends of the resolution.

"And now, Mr. Speaker, if I am right in the conclusion to which I have arrived in relation to this matter, and these gentlemen are permitted to take their seats as members and participate in the action of this House, what will be the effect upon our proceedings? I unhesitatingly answer that it will render the whole of our proceedings *null and void*, and I will proceed to demonstrate it. It will be admitted that if this House is now the constitutional House of Representatives, and if it cannot *constitutionally exist of more than sixty-four members*, then a body of men purporting to be the House of Representatives, but consisting of *seventy-four members*, cannot be the constitutional House of Representatives.

"Again, if under the constitution this House must consist of members from *certain counties*, cities, and towns, then a body of men coming as members from *other counties*, cities, and towns cannot compose a constitutional House of Representatives, even though they claim and purport to be so. I will illustrate the proposition: The High Court of Errors and Appeals is limited by our constitution to three judges, and no law decision or action of that or any other department of the government could increase that number. Should ten persons, including the old constitutional judges, purport and declare themselves to be the High Court of Errors and Appeals, and attempt to act officially as such, would the decision of such unconstitutional and pretended court be binding either upon the citizens or any other department of the government? And would it not be the duty of every other department to refuse to notice as a co-ordinate department such unconstitutional and disorganized court, whenever the acts of such pretended court should come officially before them? Suppose the number of judges who should compose the High Court of Errors and Appeals had not been fixed by the constitution, but had been left to the legislative action, and that the Legislature had by a constitutional law fixed the number at three,—suppose such constitutional court claiming the

right, as a co-ordinate department, to organize itself as it pleased, should increase the number to ten, would not the result be the same? Would not the action and decisions of such disorganized body be entirely void? Would any other department notice it, or admit the validity of its proceedings?

"Now I have attempted to show that the constitution gave the Legislature of 1833 the *jurisdiction and power to fix the number* of this House of Representatives, and to say what counties, cities, or towns should send; I have attempted further to show that the Legislature of 1833 *did, in pursuance* of this constitutional power, fix the number of representatives in this session at sixty-four, and did, in the exercise of the same power, designate and point out *the counties* which should send *these sixty-four members*; I have further attempted to prove that the creation of a county does not necessarily give an immediate right of representation, and that such right does not attach until the *regular time* for a *new apportionment* comes round. If I have succeeded in proving these three points, then I have proved that this House cannot constitutionally consist of seventy-four members, ten of whom come from counties not entitled to any separate representation, either by the constitution or any law passed in pursuance thereof.

"If, then, we adopt the resolution before us, we make this House to consist of seventy-four members, ten of whom will represent counties not entitled under the constitution at this time to any separate representation. This body will not then be the constitutional House of Representatives, and if not the constitutional House of Representatives it will *not be a department* or any portion of a department of this government. But, say the gentlemen, how is this fact to be ascertained? This House is now admitted to be a constitutional body. If we admit these persons as members, who can inquire into our action? I answer, the judiciary.

"Whenever an act purporting, upon this fact, to be a law is contested before any court, the journals of both or either branch of the Legislature may be adduced before such court to show that it is not law. Each branch of the Legislature is required by the constitution to keep a journal of its proceedings. These journals are the highest evidence known to the law of the land of the action of the two houses. Even in Great Britain, where they have no written constitution, the journals of either house of Parliament are considered by the courts as public records, and are received as the highest evidence of the action of that body, whenever such action becomes the subject of judicial investigation. Such is the law laid down in all the books of evidence, and such is the law as derived from the rules of common sense. For what, I will ask, is higher or better proof of the action of a legislative body than the journal of its proceedings, which by the constitution it is bound to keep and publish? I will mention one or two instances in which, from necessity, the courts must look into the journals of a legislative body, and a denial of which right would involve an absurdity.

"By an express provision of our constitution all revenue bills must originate in this House, and a revenue bill originating in the Senate, though passed with all the legislative forms, would not be a law. But no law shows upon its face in which house it originated. If, then, a law raising revenue was contested in the courts, on the ground that it originated in the Senate, how is the court to ascertain whether the objection is founded in fact? Most assuredly by looking into the journals of the proceedings of each house, which are not only the best but the sole evidence of the fact, unless you admit parol evidence. If in looking into the journal of the two houses it should appear that such law originated in the Senate, would not the court have jurisdiction and be bound to pronounce it unconstitutional?

"Again, the constitution says, in the twenty-third section of the third article, that 'no bill shall have the force of a law until on three several days it be read in each house, and free discussion be allowed thereon, unless four-fifths of the house in which the bill shall be pending may deem it expedient to dispense with this rule.'

"Now no law shows upon its face whether this constitutional rule and limitation upon the power of the Legislature has or has not been complied with. Suppose a bill pass in open violation of this constitutional provision, forced through upon a single reading by a bare majority, will any pretend to say that it shall have the force of law when the constitution declares it shall not? I contest such pretended law in the courts on the ground that it was not on three several days read in each house, and that the rule was not dispensed with by four-fifths majority of either house. How am I to show this? The journals of the two houses are the only evidence of the fact. Can any lawyer, or any man of common sense, say that I have a right to test the constitutionality of a law and yet have no right to avail myself of the only evidence in existence of its unconstitutionality, and that evidence, too, of so high and sacred a character that its preservation is provided for in the constitution itself? Such a proposition would be too absurd to require refutation. I take it, then, to be perfectly clear that whenever what purports to be a law on its face is contested in the courts, the party contesting it may show by the journals of the Legislature by which it purports to have been passed that it never was constitutionally passed, and is, in point of fact, *no law*.

"Now suppose I contest the validity of a law upon the ground that it never passed through any House of Representatives at all. It will be admitted, I presume, that the Senate and governor cannot make a law, and that without the concurrent action of the House of Representatives a pretended law would be null and void. Now I deny that the body professing to be the House of Representatives, and assisting in the enactment of the pretended law in controversy, was a House of Representatives. I have already shown that I can introduce the journals to prove that a law has been passed in violation of the constitution. I offer the journals to prove

that the body which passed the law was not a department of the government at all, that it was a body unknown to the constitution, and that it had falsely assumed the name of a branch of the Legislature. If all these facts appeared upon the face of the journals of said body, would not the court be bound to pronounce its action void, and not binding upon the citizens or any department of the government? Let us, then, bring the argument down to the action of this body.

"If we admit this delegation from the new counties our journals will then show upon their faces that this body consisted of seventy-four members, ten of whom represented counties which, if my previous positions were correct, are not entitled at this time to any further representation. This, according to my argument, would be clearly a body unknown to the constitution, and incapable of partaking in the enactment of a law. If, then, the courts can look into the journals of this body, and it shall appear to them, upon the face of such journals, that this was not a constitutional House of Representatives, will they not be bound to say its action is not law? The recognition of it by the Senate and the governor can in no wise alter the matter. The courts will undoubtedly have the same right as the Senate or the governor to decide, when the action of this body comes legally before them, whether it is the action of a department of the government or not. Indeed, every department of the government necessarily has the right, when what purports to be the action of another department comes before it, to decide whether such action is or is not, in point of fact, the action of such other department.

"If I am right in these three propositions,—first, that the new counties are not entitled to representation at this session; secondly, that this House has no jurisdiction or right to admit them; and, thirdly, that the courts, if our action is contested, have the power to look into our journals to see if we are the House of Representatives,—then the conclusion is inevitable that if we admit them all our acts will be pronounced void by the judiciary whenever they are legally controverted.

"Sir, I have not the slightest doubt that this will be the inevitable result should this resolution be adopted. Nor will the evil stop here. Not only will this Legislature be vitiated, but every succeeding one. We cannot pass an enumeration law nor an apportionment law. We can make no provision under the constitution for the future legislation. This resolution is the poisoned shirt of Nessus. If we once put it on the strength of Hercules will not suffice to tear it from our limbs; its baleful power no medicine can control, and in the dying agonies of the constitution and laws the people will curse the officious hand which extended to them the deceitful and fatal gift.

"I have attempted to prove that these counties have no right to the representation which they claim. I will now proceed to the second branch of the argument and endeavor to prove that the persons claiming seats have not been *constitutionally elected*. No writs of election were issued by the

governor. These gentlemen, however, claim to be elected by virtue of writs issued by boards of the county police of their respective counties.

"Now, there are but two kinds of election for representatives recognized in the constitution. One is the general biennial election, the other is to fill vacancies. These gentlemen do not claim to have been elected at the general election, for that took place in November, 1835, and cannot occur again until November, 1837. But they say they were elected to fill vacancies, on the ground that the moment a county is created the office of representative is created, and that *whenever an office is without an incumbent a vacancy happens*. For the sake of argument admit it, and let us see if they be constitutionally elected to fill vacancies. The eighteenth section, third article of the constitution, provides that 'Whenever vacancies happen in either house, the governor, or the person exercising the powers of governor, shall issue writs of election to fill such vacancies.' Now, as I have already stated, no writs of election were issued by the governor. I have asserted that the right of representation is merely a conventional right. I also lay it down as a clear principle that all conventional rights must be exercised in the mode prescribed in the compact, by virtue of which the right is claimed. In other words, the mode in which a conventional right shall be exercised is as substantial a part of a compact or agreement as the right itself, and is indeed a part of the right. The constitution of this State does not give a general right of representation, to be exercised in any way which the people may choose, but only the right of representation to be exercised in the particular modes presented in part by the constitution and in part by the laws made in pursuance thereof. As a part of the mode of exercising the right of representation in filling a vacancy a writ from the governor is requisite, by virtue of the clause of the constitution just quoted. This writ of election is as essentially necessary in the exercise of the right of filling a vacancy as a writ from a court in collecting a judgment. I have, under the constitution, a general right to apply to the courts of justice, but I must apply in the mode prescribed by the constitution and laws. A man owes me a debt, I go into court and loudly demand a judgment for my money. The judge will say, 'Sir, you undoubtedly have a right to a judgment against your debtor, but you must avail yourself of that right according to the mode prescribed by the laws of the land. Go and commence your suit in the proper form and then you shall have justice.' I take his advice, commence regular proceedings, and obtain a judgment. I now demand the sheriff to make the levy to sell my debtor's goods. The sheriff answers, 'Sir, you undoubtedly have a right to have your debtor's property sold, but not in any way you may please to exercise it. To avail yourself of that right you must first obtain a writ from the court, directed to me and commanding me to sell. You have no right to have the property sold without a writ. That is the mode in which you must exercise your right.' The refusal of the governor to issue the writ does not alter the case nor authorize the filling

of vacancies without them any more than the refusal of a court or clerk to issue a writ would justify the sheriff in proceeding without it. But it is said this is a *mere matter of form*, and to get at the substance you are justified in violating forms. Sir, I do not know what gentlemen mean by the forms of the constitution, or what right they have to say that one part is not as substantial as another. Did gentlemen, when they took an oath to support the constitution, make a mental reservation that they might violate its forms? What is the criterion, and who is to judge of what is form and what is substance? If what is form can be violated with impunity, I fear the instrument will soon share the fate of the painting which an artist requested his friends to criticise. They all pronounced it beautiful, a *chef-d'œuvre* of art. He then requested that each would take a pencil and strike from it such portion as he deemed objectionable. They did so, and the mortified artist found no vestige of his picture remaining.

"But it is said, again, this is but a small irregularity, a slight violation, and ought not to be considered of importance. Sir, a single brick may be stolen from a building without much apparent injury to the edifice, but let the example of the first robber be followed by others, and presently the whole fabric will tumble in ruins. It is from such small and apparently insignificant attacks that governments and constitutions fall. A leak no larger than a spear-head will sink the most gallant ship that ever swam the ocean. A crevasse may be made even by a reptile which will let in the waters of the Mississippi till whole counties are inundated. When men's liberties are attacked by open force there is but little to fear. They see their danger, and meet it boldly. But when, under pretence of a popular measure, under the disguise of friendship for the people, a blow is struck at the constitution of the country, then is the time for alarm. From open enemies the people can always defend themselves, to treacherous friends they fall an easy prey.

"With regard to the point under discussion, most of the gentlemen who have advocated the resolution admit that the mode of election has been irregular and unconstitutional. The gentleman from Adams, however, has taken one ground, which he has defended in so wandering and desultory a manner that I hardly know whether it is worth while to dislodge him. The position seems to be a sort of block-house in advance of his main battle-ground, which he alternately occupies and deserts. It is this. The boards of county police have by the constitution power to fill vacancies in county offices. It has shrewdly occurred to the gentleman that, inasmuch as a representative is elected in a county, he is a county officer, and, of course, that a vacancy in the office can be filled by order of the board of county police. At least the gentleman says it is a matter of great doubt whether such be not the case. He sits upon the point like a bird upon a rotten twig, ready to fly the moment it gives way beneath him. But let us see whether a representative is a county officer. I understand a county office to be *one in which* the duties appertaining thereto

are exercised within the county to which the office pertains, and the exercise of which does not operate upon or bind other counties. In other words, where the jurisdiction attached to the office does not extend beyond the limits of the county within which it is created. Thus, a sheriff, a judge of probate, a clerk of a circuit or orphans' court, are all county officers, because the duties and powers of their respective offices are confined in their exercise to the counties to which such officers severally belong. On the other hand, I understand a State officer to be one whose jurisdiction extends over the State, and the exercise of the duties of which will operate equally upon all the citizens of the State. Thus, the governor, the judges of the High Court of Errors and Appeals and other Circuit Courts, are all State officers, because their action is general, and not confined to any particular county or portion of the State. It is not the mode of election which gives character to the office, but the duties appertaining to it and the extent of their exercise. For instance, a judge of the Supreme Court, it will be admitted, I presume, is a State officer, though he is elected only from a particular district, but the exercise of the duties of his office extends over the whole State. Let us, then, see what are the duties and powers of a *representative* and how far they extend. The power of a representative is to *pass laws*, which laws extend all over the State, and affect the people of all other counties as much as the people of the county in which he is elected. He is a representative of the whole people of the State, and is, consequently, as much a State officer as the governor.

"If a representative be a county officer he is liable to the operation of the twenty-eighth section of the fourth article of the constitution, which says 'that judges of probate, clerks, sheriffs, and *other county officers*, for wilful neglect of duty or misdemeanor in office, shall be liable to presentment or indictment by a grand jury and trial by a petit jury, and upon conviction shall be removed from office.' Now suppose upon his return home the gentleman from Adams should find the Circuit Court in session and a bill of indictment exhibited against him by the grand inquest of his county, charging him with wilful neglect of duty and misdemeanor in office on account of the course pursued by him in this matter, does he pretend that upon conviction before a petit jury he could be removed from his office of representative by the judgment of the Circuit Court? If so, the Circuit Courts by a simultaneous action might break up the Legislature. This would be a novel method of proroguing parliament.

"The absurdity of the proposition that a representative is a county officer is so obvious that, as I said before, no one has relied upon it in argument except the gentleman from Adams, and he has advanced it with such manifest distrust as to show that he places no reliance upon it. If, then, a *representative is not a county officer*, the boards of police had no power to issue writs of election to fill pretended vacancies, and such writs have no more validity than if they had been issued by the chairman of a public meeting. The advocates of the resolution are compelled to admit

that these delegates have not been elected in accordance with the forms of the constitution; that the constitutional prerequisite in filling vacancies, to wit, writs of election issued by the governor, was wholly wanting. Now will the gentlemen inform me if *they can dispense with the constitutional prerequisite of a writ of election?* Whether they cannot with equal facility lay aside the law prescribing the mode of election? If they can leap over a *constitutional barrier*, the laws will hardly oppose any obstacle to their progress. Indeed, I understand it to be admitted that the persons claiming seats from the new counties have not been constitutionally elected, but that the failure of the governor to issue writs ought not to deprive the people of their right of representation. They carry this doctrine still further, and assert that upon the occurrence of a vacancy in this body and a failure of action upon the part of the officers whose duty it is to order and conduct an election, the people have a right to meet in their primary assemblies and elect in such manner as they please a representative, and that such representative so elected would be entitled to his seat on this floor. I understand the gentleman from Adams distinctly to avow (if I am wrong I call upon him to correct me) that upon a failure of the proper officers to do their duty the people in their primary assemblies have the right to send members to this body without compliance with any of the forms of election prescribed by the constitution and the laws. I ask the gentleman if I am right in attributing to him such a doctrine? He nods assent.

"Will he permit me to illustrate his doctrine by electing him according to his own mode? I will suppose that a vacancy occurs in the county of Adams. The governor neglects or refuses to issue a writ of election; the sheriff refuses to act without a writ, and in consequence no election is ordered, no inspectors appointed, and no polls opened. Deep excitement pervades the community. The people meet in the public places like the citizens of ancient Athens and greedily inquire of each other, What has happened? At the corners of the streets at Natchez huge placards are posted up, on which, in blazing capitals, you may read, 'Citizens, to the rescue!' 'Your rights are violated!' 'Your liberties are endangered!' Suddenly the tocsin is sounded, and the deep tones of the bell which hangs above the temple of justice, and which has so often assured the inhabitants of that beautiful city they lived under the constitution and laws, now speaks the notes of alarm. The excited citizens rush towards the court-house; a human wave seems in every street. That old hall, which has often rung with the eloquence of the wise and the good, is now filled with men, whose scowling brows and compressed lips denote that it is upon no ordinary occasion they have assembled there.

"The gentleman from Adams mounts the rostrum,—that sacred place from whence law has been so long expounded and justice dispensed. Beneath him is a sea of upturned faces, and, as the burning words flow from his ready tongue that multitude is swayed to and fro even as the tides

obey the changing moon. He tells them with eloquence far beyond my feeble powers to imitate that the most sacred of all their rights is in danger,—the rights for which their fathers fought, for which patriots have lived and heroes died. He tells them that taxation without representation is tyranny; that resistance to tyranny is obedience to God; that this right is inalienable; that they cannot be deprived of it by any power whatever, much less by the neglect of duty in their agents, the mere slaves of their wills. He states how the various officers have neglected their duty, and thus pours upon their heads the vials of his eloquent wrath: 'Fellow-citizens, the sword of retributive justice shall soon descend upon the traitorous governor, and to the ears of our recreant sheriff shall come from the ballot-box a voice which will make him tremble as if he heard the last trumpet sound,—the voice of an indignant people! But, fellow-citizens, you must not thus be cheated; those forms prescribed by the constitution and law shall not bind your free energies. Even now, before you leave this house, speak in accents of thunder; assert your rights,—and should your choice fall on the humble individual who addresses you, proudly will he stand in the legislative hall, and boldly will he claim his seat as your representative.'

"The gentleman ceases, a murmur of approbation runs through the assembly, which presently rises to a shout that would mate the roar of the ocean when the tempest is doing its wildest work. He is elected by acclamation, and presents himself before this House as the representative of the county of Adams, with the flush of triumph on his cheek and an almost endless roll, *containing the signatures of all that primary assembly as the certificate of his election*. Could the members of this House, under their solemn obligation to support the constitution, admit the gentleman to take his seat upon this floor? Does the gentleman from Adams really assert that under such circumstances he would be entitled to his seat? He answers in the affirmative.

"Sir, I did not expect such doctrines advanced from that quarter. I look upon them with horror and alarm. I *denounce them as disorganizing and revolutionary*. They are the same doctrines which were preached in the Jacobin clubs of Paris during the worst times of the French revolution, and, if generally adopted, will produce the same result here that marked their progress throughout that bloody period. If the gentleman's doctrine is carried out it amounts to this, that whenever an officer of government fails to do his duty the people have the right to take the matter in their own hands and do it for him. If a judge fails or refuses to hold court, the people can meet in the court-house and adjudge the causes upon the docket, and should they find a criminal awaiting his trial for some capital offence, then, inasmuch as *legal proceedings are mere matter of form and the punishment is the substance*, they will have a perfect right to hang the poor wretch upon the nearest tree. Sir, I do not pretend to say that the gentleman from Adams has pushed his theory, in point of fact, thus

far, but I appeal to every sensible man whether the propositions made by him do not embrace a principle broad enough to cover all such cases. And what is the principle? It is a fearful monster, which has for the last two or three years traversed the United States with the stride of a drunken, infuriated giant, trampling down constitutions and laws and setting governments at defiance. In the city of Baltimore, in its frantic mood, it demolished the edifices of the citizens. In Charleston a convent fell a prey to its wayward humor. It is no stranger within our State, and maddened by a southern sun, its footsteps here have been marked with blood. It is the *principle of mobocracy, the incarnate fiend of anarchy*. For the *first time it has dared to present its horrid front in the halls of legislation*. The gentleman from Adams has introduced it, and upon his head be the consequences if, as I fear will be the case, it is received with welcome. Let the gentleman remember the fate of many a necromancer, whose unholy incantations have been of power to *raise* the devil, but not to *control* him, and who, while choking in the grasp of the foul spirit, has cursed the day when he meddled with the black art of sorcery. A child may unchain the hungry tiger, but, if he does, will most likely fall the earliest prey to the savage beast.

"I told this body at an early period of this debate that a fearful chasm was at our feet, *and, if we waited for a little time, it would be bridged, so that we could pass it in safety*. 'I will leap it!' cries the gentleman from Adams, impetuously. I entreat him to pause, if not for his own sake at least for the sake of those who have committed their dear rights to his charge. Let him not tempt the fate of Curtius when the country can receive no benefit from the sacrifice. Richer treasures must be thrown into that yawning gulf before it closes.

"Sir, I do most solemnly believe that upon the rejection of this resolution depends the prosperity of this State for many years to come. I believe its adoption will infuse into the legislation of the State a poison which no medicine can cure. *It will part the laws from the constitution and set them adrift like the broken spars and rigging of a dismantled vessel, which beat against and destroy the very keel they were intended to support.*"

Notwithstanding this unanswerable speech the ten new members,—Ball, of Tunica; Bugg, of Chickasaw; Cherry, of Pontotoc; Henderson, of Bolivar; Kyle, of Marshall; McKinnie, of Panola; Nelson, of Lafayette; Ussey, of Tishomingo; Walker, of De Soto; and Warren, of Tippah,—on the 5th of January, were admitted, on the very close vote of thirty-one ayes and twenty-nine noes. Thus the reader will perceive that if Dunlap, of Hinds, had adhered to his first opinion the vote would have been a tie, for he voted in the affirmative; and had his vote been in the negative it would have taken one from the majority

and added one to the minority, so that the vote would have stood thirty to thirty.

The battle was not yet ended. It was referred to the Committee on Elections, of which King was chairman. On the 11th of January, King made a report from the majority in favor of the claimants, and at the same time made a report from the minority against them, signed by himself, Hoopes, of Claiborne, and P. K. Montgomery, of Jefferson. It briefly recapitulated the points elaborated in Prentiss's speech.

On the 12th of January the question was brought up by Mr. Johnston moving to *disagree* to this *minority report*, and Bingaman's motion to lay it on the table. The following exciting scene then occurred. The clerk proceeded to call the roll, but when he called the name of *Bugg, of Chickasaw*, Mr. Prentiss rose to a point of order, and appealed to the chair for a decision as to Mr. Bugg's right to vote; Mr. Prentiss's objections being under the seventeenth rule of the House, which forbids a man to vote on a question in which he is personally interested. Mr. Bugg was the member returned from the county of Chickasaw. The chair decided that Bugg had a right to vote. Prentiss appealed from the decision. Yeas and nays were called on the appeal.

The clerk again reached the name of Bugg. Again Prentiss rose to a point of order that Bugg had no right to vote on the *appeal*. The chair again overruled the objection. Prentiss and Cox appealed from this last decision, and once more in the roll-call the name of Bugg was reached, and once more Prentiss objected.

Here Bingaman, on leave of his second, moved to withdraw his motion. When Bugg's name was called on this motion, Prentiss again objected; the chair again overruled him. Prentiss and Cox again appealed. Here the Speaker seems to have gotten stubborn, for he refused to put the appeal to vote till the main question was put.

The journal is dry, but I rather presume there must have been considerable of a row just here. Bingaman moved to postpone, which, amid some ineffectual efforts at first, was carried. The House adjourned to three o'clock.

Immediately upon reassembling, Prentiss and six others, by leave, spread a protest on the journal reciting the above facts, and protesting against them "as a direct, palpable, and outrageous violation of the rule of this House, an arbitrary assumption of power, destructive of the rights of the House, and totally unprecedented in legislative bodies, etc., and praying that the protest be spread upon the journal as a *perpetual memorial* of their *hatred* and opposition to arbitrary assumption of power."

Prentiss then called upon the House for its sense in relation to Mr. Bugg's right to vote, and again, on reaching his name, Prentiss rose to the same point of order, was overruled, and took an appeal. By this time, however, the House seemed wearied out, and the chair's decision was sustained by thirty-two ayes to twenty-seven noes.

The Muse of History cannot but smile that a great constitutional battle should be fought over *such a name*, but it was owing to the fact that the name of his county came first on the alphabetical list of claimants.

It is said that when General Beauregard, after the battle of *Bull Run*, went to see the place, one of his aides remarked to him that the name was "rather a crude one to be handed down to history as the initial battle of a great war." The general quietly replied, "Not more so than *Cowpens*." So with the fight over the Chickasaw Bugg: it loses none of its interest because of its name.

At last, on the 16th of January, the struggle was brought to a final close. Mr. Fulton moved that the minority report be laid upon the table. Prentiss this time went for the whole batch. He rose for the fifth time to the point of order, and objected to the ten members named in said report voting on the question. Here motions to postpone and to adjourn intervened, but failed, and, for the sixth time, Prentiss made the same point. The chair overruled it, and on appeal the vote stood thirty-three to thirty-three. Thus the chair was not sustained. Here Mr. Phillips called for a division of the question,—that is, that the right of each claimant should be separately voted upon. Prentiss objected, was overruled, appealed, and the chair was sustained. The vote was then taken *seriatim* on each claimant's

case separately, each one, however, not voting when his name was up, yet receiving the votes of the other nine. The report of the committee against them was therefore voted down by a majority of about thirty-seven to twenty-eight. Thus the great contest was over; the ten new members were not only seated, but their rights adjudicated and declared valid.

On the 18th of January, Prentiss, with twenty-one members of the lower house, drew up and signed a protest against the act, and a similar protest was drafted in the Senate by the Hon. George Winchester.

Never, perhaps, was there a more flagrant violation of the constitution, and never, perhaps, were men more thoroughly deceived as to its ulterior effects. The members glided into their places, legislation went on as usual, and, after the storm was past, the "ship of state" floated along with even keel, apparently not feeling a ripple upon the surface.

I presume that during this session Prentiss took very little interest in any other question, for *this was the* question of the hour. At this time he was much occupied in the court. When through with his business there, he would drop into the House, and, if *the question* was on hand, would spring to his feet, and, without apparent preparation, throw off a dazzling argument.

One of the claimants, observing his frequent absence, *suspected* that he went out in order to *prepare* his speeches, and that they were not extempore. One day he taunted him with this, and said, "Prentiss, you remind me of the little Tennessee mills in dry time; you've *got to wait for a head of water* every time you grind."

"Ah, colonel," replied Prentiss, with a smile, "I've always got head-water enough to grind the little grist from the Chickasaw counties, at any rate."

He was not only tried by jeers, but it was also attempted to seduce him by ambition. Every one recognized him as the *coming man*. He was the very head and front of the opposition. His friends implored him not to ruin his political prospects by antagonizing against himself this great and growing section of the State. The readers of his speech have seen how he answered these entreaties. He indignantly spurned such

appeals; they were even beneath his contempt. Such motives did not weigh a feather with him in the discharge of a high constitutional duty. In a matter where integrity was at stake he never counted the cost to himself personally, but would be true to his duty at every hazard and at every sacrifice. The lofty sentiments he uttered while a member of the Legislature were his pole-star throughout his public career. Even in his jests he did not spare the claimants, and when at last they were allowed to *vote each other* into the House, he, with withering sarcasm, characterized the proceeding thus: "Ay, in this matter you Chickasaw men are hoisting yourselves into our House by the *waistband of your own breeches*."

To give some idea of how he appeared at this time, we shall quote from his friends and also his political opponents. Among the eminent visitors then at Jackson was the Hon. John Rowan, of Kentucky. He, as a distinguished guest, was invited to a seat within the bar of the House. He was completely enraptured with Prentiss. I give his ideas, if not his exact language, which was to this effect: "I have mingled with the magnates of the land,—Clay, Crittenden, Calhoun, Webster, Hayne, McDuffie, Wise, Everett, Jones of Tennessee,—but I have never heard such an able speaker or so gifted an orator as Prentiss." This may be over-colored by the partiality of friendship, but can be substantiated by a more glowing eulogium at the hands of Sam. Dale (Colonel J. F. H. Claiborne). After describing the leaders on his side of the House, Dale thus speaks of Prentiss:

"The opposition was then led by Prentiss, whom I then saw for the first time in his public life. He was the Tecumseh of the Legislature, and very much like that great orator in the control of his voice, the play of his countenance, and a peculiar way he had of hurling out his words,—a sort of hissing thunder. In speaking he was always energetic, often violent, and at such times the frown of Redgauntlet was stamped upon his brow, and his expression not only sardonic but satanic. He could be pathetic and persuasive, and then his voice became musical as a flute; his eye grew humid, his face sad, and he seemed to cast himself like a child into one's arms. When he was in a good humor his manner became playful, his eyes sparkling, his cheek dimpled, and there was no resisting him. The prevailing tone of his voice was a spirit-stirring clarion note, only harsh and guttural when dealing in denunciation. He had read

much, particularly the Bible, Shakspeare, Milton, Byron, and Scott. He had many traits of character in common with Byron, and many points of physical resemblance. There was much that was sensual in his face, but in moments of excitement it was thoroughly illuminated and purely intellectual. He had the fancy and imagination of a poet, an extraordinary memory, a faculty of sarcasm and invective never surpassed, wit and humor in inexhaustible stores, and a rare power of analysis and investigation; add to this his indomitable courage and firmness of purpose, and we have a combination of mental and moral attributes such as the world rarely sees. He selected the law for his profession, but in any other demanding great ability and resolution he would have become eminent. He had the genius that would have made a great poet, a great scholar, a great general, or a great mathematician. At the bar he never had a superior. He had not much turn for public life, not much ambition for office, and made no great figure in a mere party discussion; in fact, his political information was not extensive, and in the controversies of the hustings George Poindexter *et al.* were his superiors. He seldom read newspapers, and had no exaggerated respect for the wisdom of the sovereign people. In the days of Hamilton he would have been his devoted friend. He respected Madison, but abhorred Jefferson. He was compelled against his will to admire the heroic character of Jackson, but he strongly expressed his contempt for John Tyler. He admired and loved Clay,—his great soul, his big brain, and his lofty patriotism; but Mr. Webster, with his antique head, his Homeric imagination, and grand ideas of nationality, was the real interpreter of his political opinions. On all constitutional questions Mr. Prentiss concurred with that great jurist. In their taste as well as in their humor and convivial propensities, there was some resemblance between them. On the exciting question which divided the Legislature of 1836-37 Mr. Prentiss made a grand display of his capacity as a debater."

We need only close this chapter by referring to the fact that the great Union Bank was chartered as far as the legislative action could do so.

CHAPTER IX.

"WHAT will He do with It?" is the title of one of Bulwer's most thrilling novels, and takes its name from the question asked of the hero at every crisis of his fortune, whether of success or disappointment. At this time (1837) fortune seemed to crown Prentiss. The great suit of the Vicksburg Commons case had been decided in his favor by our court of last resort,—that is, they decided the title was *pro tanto* in him, and the injunction was dissolved. He could, therefore, go on at law and recover against whomsoever had possession of any of the lots. This made him, for that day, immensely wealthy. The value of the property was variously estimated at from one hundred thousand to three hundred and fifty thousand dollars. Besides this, he had been gathering in a rich harvest from his profession. The reader's questions will doubtless be, "What will he do with it?" "Did he puff and strut?" "Was he unduly elated?" "Did he look down upon the poor and the unsuccessful?" Not at all. He was the same genial, pleasant companion, the same true, fast friend.

The ardently desired time had come when he could send in his winged messengers home something more substantial than mere *words* of affection. He enclosed within them a portion of his earnings, wherewith to assist in rearing and educating his younger brothers and sisters, and besides this, knowing the mutability of human fortune, he took advantage of his flood-tide of prosperity to purchase in Portland, Maine, a handsome and substantial house, as also a fine library, both of which he settled upon his mother, thus fulfilling one of the noblest aspirations of his life.

This was a great stride for the boy who, but a few years before, had left "Rokeby," square, indeed, with the world, but

having only fifteen dollars in money. He now stood at the head of his profession, with a mine of wealth at his feet.

Finding that his services could no longer be of any avail in the Legislature, he resigned his seat and turned his attention to his private affairs. He had now to utilize his real estate, which, for the most part, was composed of vacant lots. He, therefore, began to build. This was a new rôle for him. Carpenters, brickmasons, contractors, had to be employed and money to be paid out. It is probable that this style of work bothered him far more than he had ever been with filing briefs and addressing courts and juries. He built the large hotel which was called by his name, and although its use is changed, and it is now a huge granary, it still stands, for it is founded on a rock.

A glimpse into the inner workings of his soul can be had from a letter to his mother, dated Vicksburg, February 10, 1837. After stating that he had finished up his legal and legislative business at Jackson, he continues :

"In the courts I was successful to the utmost of my expectations and wishes, particularly in gaining the suit to which I have once or twice alluded in my former letters, but *never told the particulars*, as I did not wish to excite hopes that might not be realized. The matter has gone through all the courts, and was finally decided last week in the Supreme Court. This is final, and we are in possession of the property. My interest is no doubt worth and will realize at least one hundred thousand dollars. *I rejoice more on your account and that of the girls than on my own*, for had I lost I could have still supported myself by my profession. . . . As it is, I trust *that neither you nor the girls will ever again have wishes even for your own comfort or that of others which you will not be able to gratify.*"

In a letter of the 29th to his sister he approves of his mother's move to Portland, and writes :

"Many a time since I've wandered forth into the world I have been tired and sick and disgusted with the cold selfishness of those around me, and ready in perfect contempt to quit all business with them ; *but the thought of home and the loved ones there* has warmed my benumbed feelings and encouraged me to new efforts by the reflection that there were, *though afar off, those whose happiness was in some measure connected with mine.* And I hold that no person can be utterly miserable when there is in the world one single individual who rejoices at his hours of prosperity or feels sorrow at his hours of adversity."

These extracts show that, though surfeited with prosperity, there was an under-current of melancholy flowing through his soul, all unseen to mortal eye; the shadow of his physical infirmity dimmed, even at its brightest, the sunshine of his prosperity.

He had now reached the position, so long coveted, that he might retire from the labors of a profession which to him had been herculean, and he sought the repose of a quiet life. An instance is given by his devoted friend, W. C. Smedes, of his kindness at this time. Smedes was young and inexperienced; his partner was out of the way. The case was one of slander; plea, justification. Smedes was "in a peck of trouble," and sent for Prentiss on the day of trial. The case was very simple: the client had uttered the slander, and there was no excuse. Prentiss appeared and heard the testimony. The plaintiff was dressed in white linsey. The day was cold, but by the time Prentiss got through with him he was sweating like a fat draught-horse on an August day. Prentiss fairly "*lathered*" him. The Smedes, Prentiss's client, got mulcted for five hundred dollars, but he cheerfully paid it, vowing that the "raking down" which Prentiss had given his prosecutor was worth that.

He contemplated visiting his native home this summer, and wrote to his brother that he had consequently declined taking any new business and was successfully winding up his old. The summer came, and in June "the MacGregor was once more upon his native heath." This was his second visit to his old home. As yet his fame had not culminated, but enough had been *heard* of him to make people wish to *hear more*.

While here he attended a Fourth of July celebration, in a vast tent. The following toast brought him to his feet: "Our distinguished guest, a son of Portland, in whose talents and acquirements the vigor of the North is united with the fertility and luxury of the South."

"Scarcely had he begun his address," says the "Memoirs," "when the thunders of applause arrested the attention of troops of men and boys who, as usual on such occasions, were sauntering about in the vicinity. Immediately they pressed up to the tent, and no sooner had they caught the accents of the speaker's voice, or, by peeping through some rent or

THE LIFE AND TIMES OF

sight of his face blazing with excitement, than they stood with delight."

John Neal, editor of the *Portland Advertiser*, pays the following glowing tribute:

"Mr. Prentiss answered the call in a modest, eloquent, and classical speech, *unsurpassed by anything of the kind we ever heard*. It was full of power, and altogether superior to the speeches we are accustomed to hear on such occasions. We have done our utmost to procure it for publication, but we are obliged to say the thing is impossible. We could not procure from the gentleman himself even an outline. But neither Mr. Prentiss himself nor the most attentive of his auditors, though accustomed to reporting, almost literally, the language of public men, uttered on public occasions, would be able to do that speech justice on paper were they to club together for the purpose. We hope, therefore, our readers will be satisfied with the concurrent testimony of all who heard it that *it was worthy of the man himself, one of the most gifted of the great body of New Englanders* who have gone to the mighty West and Southwest, those store-houses of empires, there to multiply and scatter the seeds of genuine unadulterated New-Englandism."

It will be perceived that Prentiss had reached that point of fame where the standard of comparison was *himself with himself*, his *present* with his *former* efforts. When a man reaches that point it is pretty good evidence that he has achieved *success*.

His visit to his home was cut short by political events, in which he was summoned to be a conspicuous actor. In order that we may have a clear understanding of the events now to be related, it will be necessary to remind the reader that the financial storm then sweeping over the country had left *pecuniary desolation* in its track. To mitigate as much as possible the disaster, President Van Buren, by proclamation of the 15th of May, 1837, called an extra session of Congress, to be held on the first Monday of September ensuing. It will be remembered further, historically, that the sessions of Congress beginning in 1789 had been limited to expire on the 4th of March of the two years succeeding, and, in pursuance of that law, which, like the bed of Procrustes, was inexorable, the Twenty-fourth Congress had expired on the 4th of March, 1837. The proclamation, therefore, summoned the Twenty-fifth Congress.

Now, it so happened that all the States had elected their Representatives to this Twenty-fifth Congress except the States of Arkansas and Mississippi. For the period for which the Representative from Arkansas and our Representatives, Messrs. Claiborne and Gohlson, had been elected, had, by this Congressional limitation, *expired on the 4th of March*. It followed, of course, that these States could have no representation in this extra session unless a *special election was held*, for by our State law the regular biennial election was to be held on the *succeeding* November. The reason of this *cassus omissus*, it will be seen, was owing to the fact that the Congressional terms did not coincide as to time with our *regular* biennial elections.

To elucidate the matter still more clearly, we collate the clauses of the Federal and State constitutions and laws bearing upon it:

Article 1, Section 2, of the Constitution of the United States prescribes: "The House of Representatives shall be composed of members chosen every *second year* by the people of the several States."

Paragraph 4, Section 2: "When *vacancies happen* in the representation from any State, the executive authority thereof shall issue writs of election to fill such *vacancies*."

Section 4: "The *times, places, and manner* of holding elections for Senators and *Representatives* shall be *prescribed in each State* by the Legislature thereof, but Congress may at any time make or alter such regulations."

In virtue of these provisions, the act of 1833 of our Legislature (Howard and Hutchinson, page 88) prescribed, in pursuance of our State constitution, Article 3, Section 8, that representatives to the Legislature be elected at the court-house, etc., on the first Monday and day following in November, biennially, etc., and that Representatives to Congress be elected at the same time.

Section 7 specifically prescribes: "The Representatives to Congress from this State shall be elected by the qualified *electors* at the time of choosing representatives to the Legislature, once in every two years, to be computed from the first Monday in November, in the year one thousand eight hundred and thirty-three," etc. "It shall be the duty of the governor to deliver to

the persons elected proper credentials, under his hand and the great seal of the State, which shall entitle them to a seat in the body of which they are elected members."

Section 18, Article 3, of the Mississippi constitution, as we have before seen, prescribes: "When *vacancies* happen in either house (of the Legislature), the governor, or person exercising the powers of governor, shall issue writs of election to fill such vacancies;" and, in accordance with this clause, Section 26 of our State election law prescribed, that "When any vacancy shall occur in any State office in this State," etc., where the unexpired term shall not exceed a year, the governor is to appoint; but "whenever any vacancy shall occur in any such office when the unexpired term has more than a year to run, the governor, when notified of the vacancy, shall issue writs of election to fill the *unexpired term* on thirty days' notice for district officers, and ten days for general and State officers."

From the above *collation* it will be seen that the question in our State was a dish of many ingredients, or, to use a more expressive figure, it was a *quadrangular wrangle*. The Constitution of the United States, the laws of Congress, the constitution of Mississippi, and the acts of her Legislature were all involved in its solution.

Messrs. Claiborne and Gohlson were elected on the first Monday of November, 1835, their term, therefore, extended to the first Monday of November, 1837, by the State law; but the body to which they were elected had expired, and they were thus *functius officio*.

A grave question was mooted at the start, Was this hiatus the *happening* of such a *vacancy* in the *Congressional office* as would justify the governor in issuing writs of election to fill it? Prentiss and some other leading lawyers were of the opinion that the governor did not have the power. Prentiss had very thoroughly ventilated the question of the meaning of the term "vacancy" in the discussion of the Chickasaw counties question, and he held that no vacancy had *happened* here within the meaning of the Constitution of the United States, and, therefore, our governor had no right to issue writs of election for this extra session. It was a topic of heated discussion, and we shall

presently see was made the first ground of objection to Messrs. Claiborne and Gohlson taking their seats.

Governor Lynch, however, not being willing that the State should go unrepresented in such an important session, gave the State the *benefit* of the doubt, and accordingly issued his proclamation for an election of Representatives, reciting,—

“That whereas, the President of the United States has convoked Congress to meet on the first Monday of September next; and whereas, a vacancy has occurred in the representation of the State of Mississippi in the House of Representatives of the Congress of the United States, by the expiration of the term of service for which Messrs. Claiborne and Gohlson were elected, I do issue this writ authorizing and requiring you to hold an election in your county on the 3d and day following of July next for two Representatives to Congress to *fill said vacancy until superseded by the members to be elected* on the first Monday and day following of November next.”

Previous to his going to Portland, Prentiss had made a short little canvass, but, regarding the election as void, he was not greatly disappointed at the result. He was beaten by Claiborne and Gohlson by about two thousand five hundred votes. The election was by general ticket. To show how the Chickasaw counties regarded him,—in Newton he got one vote out of one hundred and twelve; Tishemingo, three out of three hundred and sixty-four; Chickasaw, sixteen out of eighty-six. If the reader will bear these figures in his memory he will see hereafter what a contrast was affected in the votes of these counties.

Therefore while Prentiss was making his great Fourth of July oration in Portland the ballots of Mississippi were sealing his political doom. Messrs. Claiborne and Gohlson took their departure for the extra session, and arrived by the first Monday in September. These gentlemen were both eminently popular, and, having been members of the House the preceding session, were there *at home*.

It was, I believe, in this extra session that, for the first time, was mooted the question as to how the new House should be organized. The clerk of the Twenty-fourth Congress was proceeding to call the House, as usual, by roll, when he reached the name of Mr. Cushing, of Massachusetts, that gentleman rose,

and in substance stated that he saw around him gentlemen whom he understood by common fame to be members elect of this House, but he did not know this, nor had he means of ascertaining by authentic evidence; they could not be considered a House until they had elected a Speaker and been severally qualified. He protested against the present course, and did so simply by calling attention to it.

After a desultory discussion, in which the veterans turned to the old *precedents*, showing that this had been the *usual custom*, and therefore *law*, the clerk continued to call the roll. When, however, he reached the State of Mississippi, Mr. Mercer, of Virginia, rose, and interrupted the call. In effect he said, that from certain statements in the public prints in reference to the Congressional election in Mississippi he wished to propound certain questions to those gentlemen elect. He then referred to the proclamation of the governor calling for a special election to this extra session to serve until the 1st of November, and asked if such was the fact. He denied the right of the governor to appoint the *time* for such election, which, by the constitution, was required to be fixed by the Legislature, with the consent of Congress, not by the *governor*, and inferred that the election thus unconstitutionally appointed to be held was void, and, of course, the members then chosen could not be entitled to seats on the floor of the House.

Mr. Gohlson very justly arose, and *declined* to enter into a discussion of the question until the House was organized, stated, briefly, the right of the governor in the matter, that but few had questioned the validity of the election, that no objection had been made until the result was known, that fifty-five out of fifty-six counties had cast their votes in a legal manner, etc.

After some more skirmishing, Mr. Mercer afterwards brought the matter to a direct issue by moving a resolution to the effect that sufficient evidence was not before the House to show that Messrs. Claiborne and Gohlson were entitled to their seats.

This premature, not to class it by the harsher term, offensive, resolution at once brought Claiborne to his feet, and he in substance said that, debilitated as he was, he would not reply to the gentleman from Virginia, for he *would not, at that time*, suffer

himself to be drawn into an argument on that subject, but that he *rose to protest*, in the name of the people of Mississippi, against a step which he *denounced as high-handed, arbitrary, and unprecedented*, for he deliberately asserted that the gentleman from Virginia had no more right to question his title to a seat on that floor than *he* had to question the right of *that* gentleman or any other.

The debate was cut short by Bynum, of North Carolina, moving to lay Mercer's resolution on the table, which was carried by a vote of one hundred and thirty-one. This was, so to speak, the first gun fired in the great case of the "Mississippi contested election." While the call was in progress, Rhett, of South Carolina, moved that Louis Williams, of North Carolina, he being the senior member of the House, be called to the chair until the House is organized. This, after a sharp but desultory debate, was voted down, and the House then proceeded to the election of a Speaker.

The older readers will recollect how close the vote stood. It was,—for James K. Polk, one hundred and sixteen; John Bell, of Tennessee, one hundred and thirteen; scattering, *five*. It shows how nearly balanced were the scales of party, and how highly esteemed were these two distinguished Tennesseans. The one, as is known, afterwards became President of the United States, and the other led the forlorn hope of the Whig party in the great quadrilateral contest for the Presidency between Lincoln, Douglas, Breckinridge, and Bell, when the funeral-knell of our country was sounded.

As soon as the House was organized the credentials of the Mississippi delegation were referred to the Committee on Elections, but their action was so tardy that, as early as the 18th, Mr. Gohlson moved that it be instructed to report, etc.

On the 23d of September, Buchanan, from the committee, reported favorably, and closed with a resolution "that T. J. Gohlson and J. F. H. Claiborne are duly elected members of the Twenty-fifth Congress, and as such are entitled to their seats." Maury, of Tennessee, announced that he did not agree with the report of the majority.

The resolution led to a hot debate, and was laid over from

day to day until the 27th, when Maury, who led the opposition, moved to amend by inserting that they were not duly elected and were not entitled to their seats. This negative pregnant seemed to protract the debate.

Pennypacker's statement of the case was very lucid: that Claiborne and Gohlson had been elected to the Twenty-fourth Congress; their term of office had expired the 4th of March last; by the elective laws of Mississippi her general election could not be held till the first Monday of November; the President had called this extra session; it was seen by the executive of Mississippi that the State would be unrepresented, and he had therefore ordered a special election for Representatives to serve till next November, when it was *supposed their successors would be elected*. He contended that the election was not only legal, but that it covered the *whole term of the Twenty-fifth Congress*.

He thus, by a sort of political legerdemain, but by no possible rule of political arithmetic, tried to inflate a fraction into a whole number, while Mr. Maury, *per contra*, tried to dwarf the fraction into a *nonentity*. The level head of the "old man eloquent," ex-President John Quincy Adams, and Slade, and a few others took the middle and only proper ground, and told the committee that if they would modify their resolution and confine the right to the seats to the first Monday of November they would vote for it.

The delegates from Mississippi were sorely tried by this protracted discussion, and, to bring the matter to a conclusion, Mr. Gohlson, on the 25th, moved that it be made the special order of the day for the ensuing Monday; but it was not until the 3d of October that the report of the majority of the committee was affirmed by a vote of one hundred and eighteen yeas against one hundred and one nays, declaring that Messrs. Claiborne and Gohlson were entitled to their seats *in the Twenty-fifth Congress*. This resolution, as we shall hereafter see, was the *res adjudicata* upon which these gentlemen mainly relied in the subsequent contest before the House in the ensuing November.

We trust that we have made plain, thus far at least, the true status of the Mississippi election case. We shall now return from this episode to the movements of Mr. Prentiss.

His visit to his native home was cut short by the news he received that he had been nominated for Congress, for the regular term,—the election to be held on the first Monday of November, and he hurried home by the land and river route across the Alleghanies and down the Ohio and Mississippi. He arrived, after a fatiguing trip, about the 14th of August, and in his letter home gives a gloomy picture of the financial condition of the country. He immediately issued an address to his constituents, which, after giving his views on the currency question, closes as follows:

"If I am then elected as your Representative, I shall vote to immediately establish a United States Bank, for the following reasons: First. Because it will furnish the government with a competent fiscal agent. Second. Because it will furnish a currency of equal value in all the States of the Union. Third. It will restore exchange in transferring funds from one State to another. Fourth. Because it will keep in check State banks, check undue inordinate issue of local paper, and by that means in all likelihood prevent a return of the desperate remedy, 'suspension of specie payment.'"

After saying that the objections to the old charter might be obviated and the constitutional objection removed by an amendment, he proceeds:

"I have thus frankly given my views upon the bank question, a question upon which my opponents, Messrs. Claiborne and Gohlson, entertain, I am informed, a directly opposite opinion to mine. Under other circumstances I should never have placed myself in opposition to them had it not been for the opinion they avow on this important question. They are both gentlemen whose personal qualifications to represent the people of Mississippi no one can doubt. There is no personal rivalry in this contest."

He opened the campaign in Natchez in September, 1837. It will be remembered that just eight years before he stood upon that spot a penniless boy of nineteen. How changed the scene! Then unknown, now "the observed of all observers;" then without a friend, now he named them legion; then a private citizen, the shell unchipped upon his brow, now the standard-bearer of the most glorious party that ever unfurled a banner to the breeze.

Although he was far from being confident of success, he did

not exactly feel as though leading a forlorn hope. There stood his friend Bingaman, whom he had fought so hard on the Chickasaw counties question. They were divided *then*, but together now. There was the brilliant John M. Ross, who so soon after fell a victim to the scourge of the tropics. There were the pure and accomplished McMurran and his old friend, George Winchester. These and a host of others were on the tiptoe of expectation, and all felt a tremor when Prentiss first stood upon the rostrum. All fear, however, was quickly dissipated so soon as he began to speak, and their most sanguine expectations were realized. Not a note, alas! of this *initial* speech is left, and its echo died away with the sound of his voice, leaving only a lingering impression of its power upon the memory of its hearers, nearly all of whom have passed away.

From this point he began his political crusade over the State. He swept through it with untiring energy, making the circuit of forty-five counties, riding, on an average, about thirty miles a day, and speaking each day from two to three hours. He filled every appointment, rain or shine, and, notwithstanding the sweltering weather, the daily changes of diet and water, and his great intellectual efforts, he remained in perfect health. This is the more to be wondered at, inasmuch as September in our Southern clime is the trying month; it is then that the sun shines hot and the malaria seems to be condensed into a more *concentrated poison*.

The notes of his triumphs came pouring in from all parts of the State; on the 4th of September a friend wrote from Benton, Yazoo County:

"The voice of the eloquent Prentiss had scarcely died away upon my ears when I seated myself to announce to you that he addressed a very large assembly of his fellow-citizens of Yazoo in this place to-day. Never in my life do I recollect to have seen so delighted an audience, manifested by the breathless attention which they gave the speaker for over two hours. . . . Would to God that every citizen of Yazoo could have heard this masterly speech! I wish I could do it justice, but that is utterly impossible."

At Holly Springs, the beautiful county-seat of Marshall, he was tendered a public dinner, and toast after toast was given in his praise; the last of which makes a delicate allusion to his

former course on the Chickasaw question,—“The Ides of November, may they show that the people of North Mississippi feel a *returning* sense of justice to our distinguished guest.”

On the 6th of October he reached Columbus, and there dropped a letter to his brother sketching his “trials and triumphs.” There, too, he learned that his colleague on the ticket had declined to run, and that the Whigs had substituted in his stead a distinguished young lawyer of Pontotoc, Thomas J. Word. Prentiss immediately wrote to his friend, William C. Smedes, of Vicksburg, to have the name of Word placed upon the ticket; this was done, and henceforth their two names were indissolubly linked together in the great contest.

In his *voyage* through the State Prentiss had to plunge into the *chopped sea* of the Chickasaw counties. Here he had to encounter not only the great wave of the regular Democratic majority, but also the personal prejudice engendered against him by his former political course in regard to them. He was greeted with the magnanimity which all honorable men mete out to one who conscientiously acts up to his convictions. His vindication was generously received, and so far from detracting from his vote, seemed actually to increase it. Mr. Word, with that modesty which so peculiarly characterized him, afterwards wrote, in substance, that *his* name was originally put up to give strength to Prentiss in these counties, and that the result was that instead of this the latter had given him strength. Our hero, for such we must be excused for styling him, reached home on the eve of the election, and was met with an ovation like that of a returning conqueror.

Slowly, like the snow-flakes, fell the ballots on “that first Monday and day following in November;” very slowly came in the official returns, and weeks passed before the final result was announced. Prentiss had polled thirteen thousand six hundred and fifty-one to Claiborne’s six thousand two hundred and fifty-eight, thus nearly doubling his own vote at the July election, and beating Claiborne’s vote at that election by about two thousand four hundred and forty-eight.

He wrote to his brother on the 14th of November, with characteristic modesty attributing his success mainly to the fact

that his opponents had endeavored to hold on to their seats beyond the time *limited by their credentials*; as he tersely expresses it, "Claiborne and Gohlson have ruined themselves by their course, which has caused great excitement here."

Again, on the 27th, he writes:

"I have achieved a triumph sufficient to satisfy my highest ambition. I have received the largest vote ever cast in the State,—between two and three thousand more than Claiborne and Gohlson received at the July election, and that, too, in the face of the most bitter and unprincipled opposition."

As soon as he could tie up the arteries of his private business he hurried on to Washington, and reached there the day after Christmas. The capital was then, as now, as he wrote to his mother, the "city of magnificent distances." He knew that he had before him an arduous task, and, after greeting his friends and casting about to mature his plan of action, he settled upon his course.

Before lifting the curtain for the great drama, let us follow him into the solitude of his own chamber. On the 1st day of January he sat there all alone, surrounded by books and voluminous papers; these, with his usual rapidity, he glanced through, imbibing their contents for the coming struggle. Ever and anon his eye wandered as though his thoughts were not there: he was thinking of two sisters, *not* the two so plaintively portrayed by Walter Scott in his poem of "Rokeby," who stand at the goal to greet the votaries of ambition:

"Two sisters by the goal are set,
Cold *Disappointment* and *Regret*;
One disenchants the winner's eyes,
And robs of all its worth the prize,
While one augments the gaudy show,
Still to enhance the loser's woe.
The victor sees his fairy gold
Transformed, when won, to drossy mold;
Yet still the vanquished mourns his loss,
And rues, as gold, the glittering dross."

It was often Prentiss's fate to be crowned as victor, and, judging from some of his letters, he sometimes *felt* "the fairy

gold transformed to drossy mold;" but on this day his thoughts are not with Ambition and its handmaiden, Disappointment,—in spirit he is with the two sisters, who, from their far-away home, are eagerly watching his upward course. Full well he knows that, "come weal or come woe," they at least will crown him with wreaths of affection; and to one of them he now pours forth his emotions in this his hour of solitude:

"WASHINGTON, January 1, 1838.

"I do not believe I have written to you for a very long period. I will therefore make amends by commencing a new year and a letter to you at the same time. And first let me wish *you all* a happy, *happy* New Year. I would almost give my chance for a seat in Congress to be with you to-day. As it is, I am all alone, looking into books, papers, and documents of all sorts, to prepare myself for a speech in the case of 'the Mississippi election,' but every moment or two my thoughts wander away to Portland, and leave the rights of the people of Mississippi to take care of themselves. But I am with you in fancy, for I am so near you now that imagination has little difficulty in accomplishing the rest of the way."

After stating that he has presented his credentials, which will be referred to a committee, etc., he proceeds:

"I am at present strongly inclined to think that I shall succeed in obtaining the seat, though it is difficult to judge as to the result of the case, on account of the strong *party feeling* which is excited in relation to it. I feel but little *interest* in the matter, except that my pride is somewhat involved. If I am not admitted I shall come on and see you at once. If I am admitted I shall not be able to leave until the end of the session. You must all write to me. . . . My love to all."

The remark of Mr. Prentiss that "*party feeling*" was involved is strikingly illustrated in the account of the incipency of the matter contained in the reminiscence of Hon. Henry A. Wise, in the "Memoirs:"

"A caucus of Whigs was called to settle the programme. Some one proposed that on the arrival of the two members they should be taken somewhat in pupillage and put in training for their parts; that some able and experienced members should be selected to procure for them precedents, prepare arguments, and aid them before the committee of the House.

"At this William C. Dawson (afterwards Senator from Georgia) rose, and said, 'Oh, gentlemen, *you* need be at no such pains; you will have no babes to nurse; *one of those men is a host within himself*, who can take care

of Mississippi, and *rather* help us to boot than require our pap-spoon. He is not only fully grown, though low in stature and very lame in gait, but a *giant* who is a head and shoulders taller than any man I know *here* or *elsewhere* for all the task of prompting and defending himself. We need not say, "*Up a diddy*" to him.'

"'Well,' continues Wise, 'thought I, he must be something more than I am accustomed to among men to deserve this extravagant boast of him. We'll see when this giant-dwarf comes whether a little aid won't help him like other men.' He soon afterwards came; I saw him; that was enough to show me that he was a singularly-marked man."

This great orator and writer then draws a beautiful and loving portrait of his friend, which need not be here transcribed.

"The moment he arrived," continues Wise, "the roysterers immediately challenged him to a continued round of revelry. I said to myself and others, 'This Mississippi wonder will cease if he does not take heed.' Word, his colleague, was a modest, amiable, and very sensible man, who without reserve acknowledged his superiority. When I spoke to Word about the need of preparation on Prentiss's part for the approaching debate, his eye twinkled with mirth. 'Let him alone; never do you mind; wait and hear him,' said he. Well, I did wait to see; it was all that I was allowed to do."

We shall hereafter see how the prognostics of his friends, Dawson and Word, were fulfilled.

CHAPTER X.

POETS tell us of the golden age, but this epoch of which I am now writing was, most emphatically, the age of eloquence; that was the power that moved the State, and was, at one and the same time, both the lever and the fulcrum of Archimedes. The reason for this is obvious: our comparatively young government was then being moulded to adapt itself to the Constitution; new experiments were being tried, new questions being discussed. These, as a matter of course, developed the oratorical talents of the country; they had but few precedents to guide, and therefore they had to *reason* out their way. From the above causes it will presently be noted what a galaxy of talent studded the political sky.

The brief, dry proceedings of Congress, as jotted down in the *Congressional Globe* of that day, give the details of the beginning and ending of this celebrated contested election case, but, like the log-book of the mariner, while it notes the winds, waves, tides, and time, it conveys only a faint idea of the *storm* as it really raged. I shall briefly in substance give the most prominent events thereof.

On the 27th of December, 1837, the Speaker announced that there had been placed in his hands a communication from S. S. Prentiss and T. J. Word claiming seats as Representatives from the State of Mississippi on the floor of the House. Mr. Williams, of North Carolina, called for a reading. The communication consisted of a letter claiming their seats, accompanied by their certificate of election from Governor Lynch. Cambreling moved their reference to the Committee on Elections, but Bell, of Tennessee, opposed the reference, and insisted upon their being sworn in at once. While the discussion began to warm, Mr. Graves, of Kentucky, proposed that the claimants be invited to seats on the floor and to permit them to address the

House in their own behalf, but this for the nonce failed. Mr. Pope moved a resolution to unseat Messrs. Claiborne and Gohlson and seat Messrs. Prentiss and Word at once.

The resolution of Mr. Graves led to a debate, and during it Claiborne, of Mississippi, rose, and, with a knightly courtesy, in substance said,—

“Sir, so far as I am concerned personally, so far as my wishes on the subject can influence my friends, I hope that all opposition to the resolution of the gentleman from Kentucky be withdrawn. When the question was in abeyance at the extra session relative to the rights of my colleague and myself to these seats, although we did not participate in the debate here, we appeared before the Committee of Elections and submitted an argument in support of our claims. The gentlemen from Mississippi, Messrs. Prentiss and Word, appear here with their certificates of election and ask to be heard. I hope they will be; I wish them to have an opportunity of submitting any statement of fact, any argument, any appeal they may think proper. If the proposition was to qualify those gentlemen I should object decidedly, for I could never so far surrender my rights here.

“Sir, what are the facts? My colleague and myself were elected in July last. An honorable member from Virginia objected, the objection was overruled, and after the usual process of investigation the House decided we were members of the entire Twenty-fifth Congress. We did not submit our names again as candidates. We considered the question as adjudicated, finally decided, that there could be no appeal, and so thought our political friends in Mississippi. A majority of them refused to attend the polls. But, sir, the gentlemen at the bar think otherwise. Their political friends think otherwise. They were voted for. They conducted the canvass with great fairness and liberality, and I should do injustice to my own feelings to oppose any wish they may entertain to appear at this stage of the proceedings before the House.”

Thus was the glove right knightly thrown into the list by one of the champions. Notwithstanding this generous appeal, Graves's resolution was tabled. Williams renewed the struggle, but the House adjourned.

On the 3d of January, Bell moved a discriminating resolution, which was tabled. On the 12th, Buchanan, chairman of the Committee on Elections, simply made a report of the facts historically, but without any resolution or recommendation, and the subject was postponed until Tuesday, the 16th.

Mr. Bronson, of New York, here offered a resolution, “That

S. S. Prentiss and T. J. Word are *not* entitled to seats in this House." Thus the great case was brought fairly before the House by a negative pregnant. Mr. Wise, of Virginia, now rose, and moved the adoption of the preliminary usage,—that the claimants be allowed seats,—and also to speak in defence of their claim. Mr. Bell offered the substance more formally, "That S. S. Prentiss and T. J. Word have leave to occupy seats within the bar of the House pending the discussion of the report of the Committee of Elections upon their application, and that they have leave to speak to the merits of their application and the report of the committee thereon." This was carried. Thus it will be remembered that the same measure Prentiss meted out to the claimants in the Chickasaw counties question was now, though more tardily, meted out to him. The Speaker here directed chairs to be brought, which were placed in the centre aisle for their seats. Mr. Howard, of Maryland, who was the leader in opposing Prentiss and Word, and who was the friend of Messrs. Claiborne and Gohlson, now arose and repeated a statement that he had before made, that Mr. Claiborne was confined to his bed from a severe attack of illness (he had a hemorrhage from the lungs), and asked leave, as an opening argument, to read the statement of the cause prepared by Colonel Claiborne himself. This apparently reasonable proposition was objected to by Bell, and led to a fierce debate. During the discussion, Mr. Wise made some statements which produced a reply from Mr. Gohlson, and, in the language of the reporter, "language of a most painfully personal character passed between them." Any one reading that brief sentence can little realize how much trouble was brewing from the words that had passed. The House immediately demanded an apology. This was courteously made by each to the House, but not to each other.

That very night Wise wrote a challenge and placed it in the hands of Prentiss, who took it *only on condition* that the matter should be left *entirely to his discretion*. On the next morning Prentiss, not having delivered the challenge, returned it to Wise, saying, "I heard the whole controversy, I have slept upon it, I have considered it in all its bearings, and I have come

to the conclusion that it is not incumbent upon you to challenge the gentleman." Thus the matter died within their bosoms. Fifteen years after this, Wise, in the fulness of a warm heart, poured forth his gratitude to the memory of the friend who had by his good counsel saved him from *sin*.

Prentiss was a man whose honor could be implicitly trusted, and he ever used his influence to bring about amicable adjustments of difficulties, thus entitling himself to at least one of the beatitudes, "Blessed are the peace-makers, for they shall be called the children of God."

This episode being given because it was a contemporaneous event, we shall now return to the Congressional proceedings.

The chair interposed and restored order, and, the House assenting, Mr. Claiborne's argument was then read. It was very calm, dignified, and masterly, and made the very best exposition of his cause that could be made. He relied chiefly upon the July election; that the governor could not abridge the Congressional term to a fractional part; that Congress had already settled the question, and could not now go behind and reverse the decision; that such a course would violate all precedents; that their friends in the July election voted for them for the full term; that they had for that reason declined to vote at the November election,—they would have been re-elected but for this; that the action of Congress had thus lulled their friends to non-action, in the belief that the November election would not be held good. Appended to the argument was a statement in figures showing the November election in comparison with July, the object of which figures was to show that Mississippi had upwards of fourteen thousand Democratic votes, that Prentiss had received only *thirteen thousand six hundred and fifty-one*, and this was not a representation of a majority of the people; that the majority was thus defeated in consequence of the decision of Congress.

When the reading of Mr. Claiborne's argument was finished, Mr. Bell moved that the matter be made the special order of the day for the next day, stating, with due courtesy, at the time, if, on account of Mr. Claiborne's sickness, he could not attend, it could be postponed if desired. Mr. Gohlson here said that

he wished a speedy determination of the question, and neither himself nor his colleague expected to participate in the discussion.

After a running debate on propositions to print, etc., which need not be detailed, at length, on the 17th of January, the chair announced the special order of the day, being Mr. Howard's resolution that "S. S. Prentiss and T. J. Word are not members of the Twenty-fifth Congress, and are not entitled to their seats in the House as such." Mr. Bell moved to amend the resolution by striking out and inserting two distinct propositions,—first, that the resolution of the House of the 3d of October last, declaring that Messrs. Claiborne and Gohlson were duly elected members of the Twenty-fifth Congress, was agreed to without a knowledge of all the facts which were material in the case, and the same is hereby rescinded; and, second, be it further resolved, that Messrs. Prentiss and Word were duly elected members of the Twenty-fifth Congress from the State of Mississippi in November last, and are entitled to their seats as such.

It will be seen at a glance that this double-headed amendment was broad enough to cover the whole ground, its object being to unseat the sitting members and seat the claimants *uno flatu*.

It was on this resolution, the result, no doubt, of consultation, that Mr. Prentiss made his first great speech, the delivery of which occupied about three hours a day for four days. Let us picture the scene. The old hall of Representatives was a grand-looking chamber, with its lofty dome, its Speaker's chair beneath the eagle draped in the folds of our flag, its oval shape, and its taper pillars supporting the lofty gallery. Before the young aspirant sat an array of the talent of our country which has rarely, if ever, been equalled. Near him sat the wit, diplomatist, statesman, and sage, who reversed the maxim, "Jack of all trades," for he seemed to be an "Admirable Crichton" and good at *all*, ex-President John Quincy Adams. There sat against him the short but heavy-bodied accomplished orator and scholar, Hugh Swinton Legare, of South Carolina. On his side was Tom Corwin, one of the greatest orators of his age. There was the brilliant Menefee, of Kentucky. Hovering near him

was the Harry Percy of the House, Henry A. Wise, of Virginia, and his more phlegmatic colleague, R. M. T. Hunter. There sat Cilley, of Maine, who, alas! was so soon to fall, another victim to the "code of honor." There was the eloquent Dawson, of Georgia, whose prediction about Prentiss I have before given. There sat Howard, of Maryland, the head and front of the opposition to him, and near him sat Bronson, of New York, who was almost persuaded to be in his favor. There was Millard Fillmore, *clarem et venerabile nomen*; Evans, of Maine; Levi Lincoln and Caleb Cushing, of Massachusetts; Sergeant, of Pennsylvania, and Bell, of Tennessee, who, as we have seen, was in this case the "Bell-wether" of the flock. Both of Prentiss's competitors were men of distinction. Gohlson, it will be remembered, had served with him in the Mississippi Legislature, as it were, in the days of their youth, and he knew what was coming, for he had often heard him. These and other distinguished men of the nation now sat before him to hear, criticise, approve, or condemn.

He had before addressed people by the thousands; he had spoken before justices of the peace, judges of Circuit and Supreme Courts, and juries; he had harangued the masses from the hustings; he had spoken to the Legislature of his State; but *this* was the first time he was to stand before the American people. Through the ear of Congress the *nation* was his auditor. There was an expectancy floating around that something uncommon was to happen, and accordingly the galleries were packed.

The old hall, though grand to look upon, was an acoustic failure, and ordinarily the human voice reverberated through its lofty dome with a confused "sound signifying nothing," but it was not so with the voice of this marvellous man. It had a clear silvery ring, which, in spite of his rapid enunciation, permeated distinctly every part of the hall; it could sink to a deep guttural, which, though tinged with a barely perceptible lisp, could be heard from floor to ceiling. He usually had a way of erecting his crest and shaking his head just as he was about to begin to launch forth his thunder, and his eye, of deep hazel, grew red like the lion's when excited; but this time he did not commence in this style.

SEARGENT SMITH PRENTISS.

Of course his friends could not but feel a sort of for even the most indifferent auditors on such an occasion a young orator rises, participate in the tremor. If this was so or not we can say that of all that an orator himself was perhaps the most perfectly self-possessed, cool, and collected. In a bad cause even he was strong, in a doubtful one he was formidable, but in a righteous one he was overwhelming. His opening sentence at once fixed attention, for it gracefully veiled his own individuality and brought out at once in full relief the great cause of his people.

"As an *individual* I thank the House for the *courtesy* which has been extended to me. On behalf of the *State* I acknowledge the *somewhat tardy* justice which has at length permitted her to be heard upon the question of her *right to choose* her own *Representatives on this floor*. The first use I shall make of the privilege accorded me will be to set the House right as to the attitude of the question, for I perceive that many members labor under a misapprehension on this point, and I am anxious that the position I occupy in the matter should be distinctly understood. I have petitioned this House for nothing, neither have I memorialized it. I have presented myself here as a Representative of the *sovereign State of Mississippi* to the Congress of the United States, and claim a seat on this floor not as a *favor*, but as a matter of right. I produced my credentials properly authenticated, showing my due election according to the laws of that State, and demanded to be sworn. No one objected to the legality of my election, no one questioned my qualification or the correctness of the returns, neither was there any doubt as to the authority of my credentials. The State of Mississippi, it was admitted at all hands, had through her highest organs, and in accordance with the provisions of her constitution and laws, solemnly accredited me as her Representative. It was objected, however, that the seats belonging to that State were already filled, as appeared by a resolution of this House adopted at the last session, which resolution the State had no right to gainsay. You, sir, refused to administer the oath, and referred the matter to the House, the House referred it to the Committee of Elections with instructions to report the facts of the case, which report, with the resolutions based thereupon, is now the subject of discussion.

"Had I been permitted I should have objected to this reference. I thought then and still think that a committee had no business with the matter. It was not a case of *contested election*. No one denied the due election and return of my colleague and myself. Our credentials were perfect and unimpeached, and the only question which arose was upon the *right of the State of Mississippi to hold any election in November for Representatives*

to Congress. The State had claimed the right, had exercised it, and throughout had asserted it to this House. No one gainsaid the election, qualification, or return. It was the *right of election itself* which was controverted, and not the right of those claiming under it. The State of Mississippi asserted her right in November last to elect Representatives to the Twenty-fifth Congress in obedience to her laws, which she believes to be constitutional and *binding upon this House*. The House *denied the right*, and set up *its own action against it*. Now as far as the House had jurisdiction to decide upon this collision between itself and the State, I thought it could and should have proceeded at once, without the intervention of a committee.

"I listened with feelings of deep regret and alarm to sentiments expressed by honorable gentlemen, whose only advantage over myself has arisen from an earlier action upon the part of the States which they represent, and an assertion of their claims at an earlier period than was practicable on my part. Sir, is there a gentleman on this floor who holds his seat by virtue of a law more definite, under credentials more perfect, with an expression more extensive or more decisive of the popular will than what were exhibited and admitted in the present instance? And yet it was said that the high and solemn authentication by a State of her Representative here stands upon the same footing and is entitled to no greater consideration than an *humble memorial* or a *beggarly petition*. Yes, sir, one of the twenty-six States of this confederacy, constitutionally entitled to furnish and compose a portion of this very body itself, stands, when *asserting* such right, in no better attitude than a private individual *praying* for a place or *petitioning* for a pension. I protest against such doctrines. They are *equally degrading* to the character of the States and of this House, composed as it is of the Representatives of those very States whose rights are treated with such contempt. I *deny* that the *action* of a great independent *political* community is entitled to no other attention or is subject to the same technical rules of procedure as the action of a private individual. Some benefits, however, I will acknowledge, have resulted from the reference. The facts are now *all* before the House in their most authentic form, and though portions of them have but little bearing upon the main question in controversy, to wit, the *right of election*, yet I doubt not they will produce a salutary effect in diminishing the *prejudice* which has arisen from an *ex parte* and mistaken view of the case.

"In performing the high errand upon which I have been sent, I am conscious of the serious disadvantages under which I labor. In the first place, I am a stranger here, and the claim which I advance is opposed by two gentlemen who doubtless possess and deserve the sympathies of this House. These gentlemen, too, are in the full possession and enjoyment of the subject-matter of dispute, and upon their side is enlisted that *natural* prejudice which all mankind feel in favor of *possession*. One of them, Mr. Claiborne, has, in advance of this discussion, submitted to the

House an address, in which, with great skill, he appeals to the personal friendships and social relations which he has so long had the opportunity of forming. Indeed, they have all the advantages of position. I come to them an unwelcome messenger from their master, that great sultan, the people, bearing as a present the *political bowstring*, and it is not to be expected that the rebellious pashas will consent to be *choked off* without a struggle. Indeed, they boast that they have long since entered into a treaty with this House by which the House is *bound* to protect them in their treasonable practices, and to interpose its broad shield between them and their justly *exasperated* sovereign.

"I regret the position which I am compelled to occupy in relation to these gentlemen, with both of whom my intercourse has always been marked by the *most kindly feelings*. I have, however, a high duty to perform. I *act for others, not for myself*, and I should be unworthy of the confidence reposed in me did I allow *any personal* considerations to influence my action or bias my judgment.

"A portion of the public press has interfered in this matter in the most licentious manner. Ever since it has been undergoing an acknowledged judicial investigation by this House the question has been decided *out of doors* with an air of *ex cathedra* authority which is manifestly intended to have an effect here. The *official organ* itself has spoken, and with an *ignorance of the law* only equalled by its *perversion of the facts*. I have alluded to this matter only to inquire whether the god or the priest alone is responsible for the *lying oracle*, to *deprecate executive* interference in this controversy, and to express my hope that the *sword of Brennus* is not to be cast into the scale, compelling by its massive weight *right* and justice to kick the beam.

"Rumor with her hundred mouths has bruited it abroad that this case would be decided *not* upon its merits, but upon *party* grounds. In accordance with her ancient custom, surely *she lied*, for when I cast my eyes around and behold collected here the selected *wisdom* and *worth* of this *mighty nation*, I cannot restrain my indignation at the foul and groundless slander. What! the *right of representation of a whole State* to be decided upon *party* grounds! The *elective franchise* to be sacrificed at the shrine of party! *I do not believe it, sir,—I do not believe it.* A degree of corruption which would warrant such a supposition exceeds my comprehension. I have a better opinion of my kind; and if I had not, sir, I would trust to *fear* even after I had lost my confidence in honesty. *No party in this country dares tamper with the elective franchise of a whole State.* No party dares to move a corner-stone at the risk of bringing the whole edifice tumbling about their ears. No party dares to place a match to the magazine whose explosion they must know will blow them to atoms. The people guard with more than Argus vigilance the *right of representation*, for it has not been long since their fathers fought for it; and woe betide the party which shall attempt to *steal* from them the Hesperian fruit!

"Did I think, sir, that Rumor spoke truth, that faction would usurp the seat of judgment, and partisan prejudice instead of the Constitution and the laws furnish the rule of decision, then, indeed, I would deem it worse than useless to trespass on your patience. With slow and melancholy steps I should return to those who sent me here, and tell them that the *days of the republic* were numbered; that the spirit of liberty had departed, and in its stead a *demon* had entered and taken possession of the *body*, directing its movements and controlling its functions.

"I would that I wielded the spear of Ithuriel, that with it I might touch the foul fiend of party should he dare 'squat like a toad' to whisper false suggestions in the ear of this House! then would he start up in all his horrid deformity with a visage more hideous than that of the dark Mokanna, the veiled prophet of Khorassan. But, as I have said, I cannot believe there is anything to fear on this score. The *hounds* of party may *howl* around these walls, but surely they will not *dare* to enter *within its sacred precinct*.

"In approaching the subject of this controversy, I confess, Mr. Speaker, I am filled with *alarm* at the *magnitude* of the task I have undertaken. In ordinary questions of law *decision* travels with *confidence* and ease upon the *highway of precedent*, but *penetrates* with slow and doubtful steps among the less beaten *paths of constitutional construction*. In searching into the principles of organic law, in examining and measuring the exact extent and relative position of the pediments and arches which sustain the pillars and the walls of the political fabric, *skill* and *experience* should be the *companions* of reason. I am aware how greatly I lack both. I know that I have around me materials more than sufficient for the construction of an *impregnable* argument, but that very *abundance*, from which the eye of a more experienced artificer would select at once the portions more appropriate for the work, *distracts* my attention and *confuses* my choice.

"Sir, this controversy is one of an importance unsurpassed by any that can arise under our political system. It involves not merely the question, whether A or B is entitled to a seat on this floor as a Representative of the people of the State of Mississippi, but the question, also, whether the right to choose such Representatives *resides with the people of that State* or in *this House*; whether the laws of that State enacted according to an express mandate of the Constitution of the United States are mere nullities; whether the executive authority of the State has the power at its discretion to abrogate or nullify an admitted constitutional law. It involves more than this, it involves the question whether this House can, under cover of *its power of judging* of the election qualifications and returns of its members, *nullify a constitutional law of a State or of Congress* fixing the time for the election of Representatives to Congress. This is not all, it involves the right of the delegations of one-half of the States to the very seats which they now occupy. In fact, it involves the consti-

tutional character of every House of Representatives that ever assembled in this hall. Such are some of the considerations which will arise in this discussion, and I doubt not their *magnitude* and *importance* will command attention and insure more mature deliberation. I lay down the following propositions, which I shall endeavor to demonstrate in the course of my argument :

“First. That Messrs. Claiborne and Gohlson never were constitutionally or legally elected Representatives from the State of Mississippi to the Twenty-fifth Congress, and that the election in July last, under which they claim, was absolutely and wholly void, a mere nullity.

“Second. That if said election was good for anything, it was good only for the period of time anterior to that fixed by the law of the State for the general election, to wit,—the first Monday and day following in November, inasmuch as said July election was ordered to fill that period only, and was holden by the electors for the purpose and with the intention of filling that period only, and that, in point of fact, no election was ordered or holden in Mississippi in July last for Representatives to the Twenty-fifth Congress.

“Third. That in November last my colleague and myself were constitutionally and legally elected Representatives from the State of Mississippi to the Twenty-fifth Congress.

“But I am met upon the threshold by the gentlemen and told that I shall not be permitted to demonstrate a single one of these propositions. That at the special session a *resolution involving them all* was adopted by the House, that *the whole matter thereby became res adjudicata*, and that the decision so made was final and conclusive, incapable of revision, and binding upon all the world. They tell me that, even admitting the propositions laid down by me to be true, still they are entitled to their seats by virtue of the *judgment* of this House, and that by said judgment the State of Mississippi is estopped from proving that they are not her Representatives. Such is the position which the gentlemen have assumed before the committee, and such is the ground which they occupy before this House. Dipped, Achilles-like, in this judicial Styx, they deem themselves invulnerable, but I trust I shall be able to find some soft place in heel or head to which the arrow of truth may cleave its way.

“Have the gentlemen considered well the attitude in which they place themselves by this course? Was not their better angel nodding at his post when they resolved upon it? Was there nothing in the manner and circumstances under which that decision was obtained which would make them feel a particular delicacy in using it for the purpose of smothering the present investigation? Whither has fled that lofty magnanimity which at the last session induced the gentlemen to institute proceedings against themselves for the purpose of ascertaining the rights of their constituents, that delicate sensibility which could not brook a shadow of a doubt as to the legitimacy of their representative character, that fostering protection

of the election franchise, that deep veneration for the voice of the people, that ready obedience to their will?

"Do the gentlemen really wish to represent the people whether they will or not? Do they actually intend to set up a majority of seventeen votes *here* against a majority of *seven thousand* at home? Did they obtain this decision for the purpose of *extending* the powers delegated to them by the people? Whom do they consider their constituents, the people of Mississippi or the members of this House, that they should base their rights here upon the action and rule of the latter instead of the former? Does not their valor outrun their discretion? A bold man was he, that ancient one who stole the fire from heaven and hid it in a hollow reed, but not less bold is he who would steal the elective franchise from the people of a whole State and hide it in the hollow decision of this House. Let them remember the fate of Prometheus, 'the vulture and the rock.'

"Come, I cast down my glove and challenge them to do battle upon the merits of the cause. What! are they afraid to break a lance or shiver a spear in fair lists upon the open plain, that thus silent and sullen they retire behind the wall and hide in an intrenchment, constructed, one would judge, for the very purpose of *protecting themselves against their constituents*? Perhaps they are content with the laurels won on a former occasion, when, as I am told, in right knightly style they held a passage-at-arms and challenged all comers? They pranced, it is said, in gallant guise around the lists, and their trumpet of defiance rung forth loud and clear; but well they knew the while that two thousand long miles, with many a lofty mountain and many a broad and rushing river, intervened between themselves and those whom they thus summoned to the contest. That summons is at length answered by the people of Mississippi, on whose behalf and as a humble champion of whose rights I now appear. Fast and far I have ridden to meet the gentlemen's high defiance. Ivanhoe has returned from the Holy Land, and the disinherited knight *dares* the proud Templar to the combat.

Again and for the last time, in the name of Mississippi, the lady-love whose gage we both profess to wear, I call upon the gentlemen to come forth from their castle—*res adjudicata*, as they call it—and meet this controversy upon fair and open ground. They decline the invitation. *Well, if they will not come to me I will go to them*; I will attack this fortress in which they have taken refuge. It strikes me it can be either stormed or starved into surrender, for I do not believe its defences are tenable or its garrison victualled for a very long siege. Let the gentlemen remember, too, that they have rendered themselves fully liable to the operations of that rule of war which denies quarter to those who attempt to defend an untenable position.

Let us now examine into the character of this *res adjudicata*, which, like the seal of Solomon, has closed up the whole matter. At the special session of Congress in September last, Messrs. Claiborne and Gohlson

appeared and took their seats on the first day thereof as Representatives from the State of Mississippi. They participated in the organization of the House and in all business transacted by it until the fourteenth day of the session, when Mr. Gohlson introduced the following resolution: '*Resolved*, That the Committee on Elections be instructed to report *upon the certificate of election* of Messrs. Claiborne and Gohlson, the members elect from Mississippi, whether they are members of the Twenty-fifth Congress or not, and that said committee take into consideration the proclamation of His Excellency Charles Lynch, governor of said State, and the writ of election issued in accordance with said proclamation on the 13th of June, 1837, and also the act of the Legislature of the State of Mississippi entitled an act to regulate elections, approved March 2, 1833.'

"Upon this reference the Committee of Elections made a report, concluding with the following resolution: '*Resolved*, That Samuel J. Gohlson and John F. H. Claiborne are duly elected members of the Twenty-fifth Congress, and as such are entitled to their seats.' This resolution was adopted by the House, and its adoption constitutes the *res adjudicata* which the gentlemen set up as final and conclusive of the whole matter.

"Now with regard to this action of the House I take the following points:

"First. That it was not a judicial act of this House at all, nor was it adopted by this House acting as a judicature.

"Second. It was not a decision or adjudication upon the election qualification or return of myself and colleague, our election and return having taken place long since said pretended adjudication.

"Third. That so far as said pretended adjudication goes to alter or annul the law of Mississippi fixing the *time* for the election of her Representatives to the Twenty-fifth Congress, it is void; this House having no power, either legislative or judicial, to alter or annul a constitutional law of a State fixing the time for the general election of her Representatives to Congress.

"Fourth. Said pretended adjudication is not conclusive on the State of Mississippi, because she was neither a party to the proceedings upon which it was based nor had any notice thereof, either actual or constructive.

"Fifth. Said pretended adjudication *was founded* upon *palpable* mistake, and the House is bound to review it.

"First. The adoption of said resolution was not a judicial act of this House. Messrs. Claiborne and Gohlson were in possession of their seats, participating in all the business of the House. No one contested their election, and the resolution introduced by themselves originated entirely out of their delicate sensibilities on the subject, and was nothing more than an application to the House for its advice and opinion upon the validity of their return. Such was the understanding and view of the committee, as appears from the following extract from their report: 'No objection,' says the committee, 'is made from any quarter to the right of the gentlemen elect to their seats only by and through themselves, on account of the peculiar circumstances under which the election was held, their own deli-

cacy and sense of propriety have prompted them to invite a scrutiny into their right to seats in this House.'

"This shows the whole proceedings originated in the tender consciences of the gentlemen, and that the House was applied to as a sort of lord chancellor to quiet their scruples. The resolution of reference did not contemplate or authorize an *investigation into the election or qualification of the sitting members*, the reference is special, instructing the committee to report upon the *certificate* of election of Messrs. Claiborne and Gohlson, the members elect from Mississippi, whether they are members of the Twenty-fifth Congress or not, etc. This confined the committee to the return above, and the resolution reported by them and adopted by the House must be construed in connection with the resolution of reference, and really amounts to no more than a resolution that upon their certificate of election or return it appeared that Messrs. Claiborne and Gohlson were duly elected, etc. The jurisdiction of the committee was limited to this question, and their action cannot be legitimately construed as extending beyond it. Their whole power over the subject was *derived from* and *limited by* the resolution of reference. So far as they intended to embrace in their report any other matter than the return they exceed their authority and travel beyond the record.

"Will any one contend, for instance, that the committee would have been authorized under the special reference above set forth to have investigated the question of qualification? It seems to me perfectly clear that the resolution of reference did not contemplate or authorize an examination or decision of the absolute right of Messrs. Claiborne and Gohlson to seats in the Twenty-fifth Congress, but only of their credentials or certificate of election, to ascertain whether they had been returned, and could exhibit by their certificate of election a *prima facie* showing of right. It was the question of *prima facie*, not absolute right, which the committee were directed to investigate.

"The gentlemen say to the House, 'Upon our certificate of election are we entitled to take our seats as members of the Twenty-fifth Congress? We have doubts upon the subject, and our high sense of delicacy has impelled us to ask the opinion of the House.' The House, through its committee, examines the certificate of election, and answers the gentlemen by a resolution that they are duly elected and entitled to seats. Now the extent of this response must be answered by the extent of the inquiry, and so measured amounts to no more than this,—'Upon your certificate of election you are entitled to seats; in other words, you have made a *prima facie* case showing sufficient to authorize you to take seats as members of this body.'

"The whole of this amounted to no more than what had already been tacitly decided by the House in the case of every one of its members, for the very admission of a person to be sworn as member is as much a decision and adjudication of his right of membership as a positive resolution of the House affirming the right. Yet it is every day's occurrence for the

sitting member to be ousted of his seat, when contested, after the House has decided, by admitting him to be sworn, that he was entitled to it. In the present instance the House, by permitting Messrs. Claiborne and Gohlson to participate in its organization and take part in its proceedings, as fully decided upon their right to seats as by the resolution subsequently adopted. Neither the tacit nor the open decision, however, can be considered in the nature of a judicial act. To constitute this there must be *parties* and a *contest*, of which there was neither in the present case. The conclusion to which I am brought by these considerations is that the resolution adopted by the House upon the report of the committee, when taken and construed, as it must be, in connection with the resolution of reference, is merely an expression of the opinion of the House that those gentlemen had been duly returned, and upon their certificate of election—in other words, *prima facie*—were entitled to seats in the Twenty-fifth Congress. If this construction be correct, then the adoption of that resolution interposes no obstacle in the way of the present investigation.

"Second. At all events, the action of the House at the last session cannot be considered an adjudication upon the election, qualification, or return of myself and colleague, for the election had not then taken place, and the subject-matter did not exist for *adjudication*. If the House adjudicated upon anything, it was only upon the matter before it, and not prospectively upon future elections. The resolution adopted by this House does not profess to decide upon the November election, neither does it in any sense refer to it, nor was it competent to do so. Any prospective decision in relation to that election would have been clearly *coram non judice*. It is sufficient, however, to say there is no such decision.

"The resolution adopted at the last session may appear incompatible with the claim which I advocate; but this is no more than every day happens in courts of justice, to whose acts gentlemen seem so anxious to assimilate this proceeding. A court to-day solemnly adjudges a piece of property to belong to A; to-morrow a better title is exhibited by B, and the same court adjudges the same property to B, apparently in direct contradiction to its previous decision, nor would the court permit such previous decision to be interposed as a bar to the claim of B. I take it to be clear that even according to the strictest technical rules which govern judicial proceedings a decision by this House that the July election was valid is not an adjudication that the November election would be invalid. If this position is correct, then the question of the validity of the election of myself and colleague in November is *res integra*, and cannot be in any sort affected by any previous decision of this House upon any other election.

"I come now to the third position which I have laid down in reference to this point. It is that so far as said pretended adjudication goes to alter or annul the law of Mississippi fixing the time for the election of her Representatives to the Twenty-fifth Congress it is void, this House having

no power, legislative or judicial, to alter or annul a constitutional law of a State fixing the time for the general election of Representatives to Congress. The question arising out of this position is one of vast importance, involving considerations of the highest magnitude. There cannot arise out of our political system a question of deeper interest than that which involves the extent of the powers of this House over the subject of representation. No case has ever before happened in which a direct collision has occurred between this House and one of the States in relation to their respective constitutional powers over this matter. Such, however, is the unpleasant attitude which the State of Mississippi and this House now occupy in regard to each other. I approach the investigation of this question with great diffidence. I find myself walking upon untrodden ground; no light of precedents guide my footsteps, and it is with an inexperienced eye that I shall attempt to ascertain from the great principles of the Constitution itself the true rule of construction.

"The power of this House over the subject of representation is derived from the following clause of the fifth section of the first article of the Constitution: 'Each house shall be the judge of the elections, returns, and qualifications of its own members.' Now what is the extent of the jurisdiction conferred by this clause? Does it give the House a full and complete jurisdiction over the whole subject-matter of representation? or does it confer only a limited and special jurisdiction over particular portions of the subject? I humbly conceive that the latter question alone can be answered in the affirmative. The designation and specification of particular *portions* of the subject-matter necessarily precludes the idea of a *general* jurisdiction over the whole, more especially when other portions are expressly placed under the jurisdiction of other departments of the government.

"Now the subject-matter of representation is parcelled out by the Constitution among divers departments of the State and Federal governments, and I conceive the proposition too plain to admit of contradiction that each of these departments or depositaries is bound to exercise the portion of power assigned to it, without infringing upon or interfering with the constitutional powers of the other agents or depositaries, and that any such infringement or interference would be a palpable violation of the Constitution. The Constitution directs that representation shall be apportioned among the States in proportion to numbers, etc., and directs that an enumeration shall be made at stated periods as the basis of such apportionment. Now after an apportionment has been constitutionally made by law, will any one contend that the House, under the power of judging of the elections, returns, and qualifications of its members, could change or alter such apportionment? For instance, the State of Virginia is entitled by the present apportionment to twenty-one members,—suppose upon the presentation of her delegation the House had decided that she was entitled to ten only, and had adopted a resolution to that effect, would such a resolution have been binding either upon the House or

upon the State? Clearly not. It would have been a palpable usurpation on the part of the House, and, if persisted in, would have constituted a virtual dissolution of the government. Here is one portion of the subject-matter of representation not falling within the scope of the judicial power of the House.

"Again, the Constitution provides, in the second section of the first article, that the House of Representatives shall be composed of members chosen every second year by the people of the several States. Can this House, by virtue of its judicial power over the election of its members, make a valid and binding decision extending their term of service *beyond two years*? Clearly not, otherwise Congress might declare itself perpetual and we should soon have a 'Rump Parliament.' No one will contend for one instant that such a power resides in this House. But why not? Because the Constitution has itself decided the matter and thereby placed it beyond the jurisdiction of the House. Here, then, is another portion of the subject-matter of representation, and a portion also of the subject of election, to wit, the *term of service*, upon which a resolution or adjudication of this House would be entirely powerless and nugatory.

"Again, the Constitution, after defining the basis of representation and prescribing the term of service as before mentioned, provides 'that the times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof, but Congress may at any time *by law* make or alter such regulations, except as to the places of choosing Senators.' The State Legislatures have, then, the power of fixing the time of holding elections for Representatives, subject to no constitutional limitation, *except that in the second section of the first article, which directs that the time shall be every second year*. Now I take it that a legislative act, authorized and commanded by the Constitution, has *all the sanction and validity* of the constitutional provision itself, from whence it is derived, and that the constitutional action of the Legislature of a State, fixing the time of holding election for Representatives, can no more be annulled or disregarded by this House, whether acting in a judicial or legislative capacity, than the same provision incorporated or designated in the Constitution itself. Now will any one contend for one instant that if the Constitution had itself provided that the election for Representatives from the State of Mississippi to the Twenty-fifth Congress should take place on the first Monday and day following of November, this House could have annulled such constitutional provision in advance, so as to have rendered the election held under its authority void? Would not, rather, such adjudication of the House have been void so far as it violated the constitutional regulation? Upon what principle is an adjudication of this House in violation of the constitutional provision in relation to the *times* of holding elections more binding than an adjudication extending the term of service in violation of the clause of the Constitution *limiting* it to two years? Yet in the latter case every one will

admit that the action of the House would be void, why not in the former? It seems to me clear that no decision of this House *alone* can affect or change the term of service, the apportionment of representation, or the *times*, *places*, and manner of holding elections as constitutionally fixed by the State Legislatures or by law of Congress. It is where these provisions leave off that the jurisdiction of this House commences, with power to judge. First, of the election itself,—that is, whether the election has been holden at the *time*, *place*, and *manner* prescribed by the State Legislature or *law* of Congress, as the case may be, *such regulation* of the *State Legislature* or law of Congress constituting the *rule* by which the House is *bound to judge*. Secondly, of the qualifications. The qualifications of a Representative are designated in the Constitution itself, and the jurisdiction of the House over this subject empowers it to decide whether the persons elected possess the qualifications required by the Constitution, but gives no authority to add or diminish the constitutional requisitions. Thirdly, of the returns. Here the House has a broad jurisdiction to judge of the actual result of an election and of all the various modes by which that result is ascertained.

“In regard to the extent of the *judicial* power of this House, we may read an instructive lesson from the history of the British Parliament. The House of Commons had claimed from time to time as one of its privileges and a right inherent in its very constitution the judicial power of deciding upon the election, qualifications, and returns of its members. In the exercise of this acknowledged jurisdiction it undertook in the case of the Middlesex election to decide that the *expulsion* of a member constituted disqualification, in derogation of the law under which expulsion did not constitute disqualification. In pursuance of this decision, John Wilkes, who had been previously expelled, was adjudged incompetent to sit for the county of Middlesex, though elected by an overwhelming majority, and Mr. Luttrell, who had received a small vote, was declared duly elected. Upon this arose one of the most violent civil contests on record. The people, justly alarmed at the arbitrary decision of the House of Commons, declared it to be a palpable violation of the constitution and a dangerous infringement of the popular rights. They denied the powers of the House to decide in cases of election contrary to law, and denounced the claim of the House to an exclusive judicial power, final and conclusive over the whole subject of election, as fatal to the liberties of the country. The whole nation became aroused, and for fourteen years the indomitable spirit of British freemen waged continual war on this subject against a determined administration and an obstinate House of Commons. Popular right at length prevailed over legislative usurpation, and was only satisfied by the utter expunction from the journals of the obnoxious decision of the House.

“This very power of altering or setting aside the State regulations is by the Constitution reserved to Congress alone *to exercise by law*. If the

decision of this House is of sufficient force to overturn the legislative action of the State, then this House possesses *judicially* the same power of repealing and annulling the action of the State Legislature which was manifestly intended to be intrusted *only to the joint action of Congress and the Executive*, and intrusted, too, with a degree of jealousy and misgiving on the part of the States, as I shall hereafter show, unequalled in the delegation of any other power.

"I shall not at this moment go into an argument upon the constitutionality of the law of Mississippi fixing the time for the general election of her Representatives to Congress. This belongs to future consideration. At present I claim the conclusion that if such law is constitutional, this House had no constitutional power, either legislative or judicial, to annul it, and that the adjudication of this House under discussion, so far as it does infringe upon such constitutional State action, *is void*.

"I come now to the fourth proposition, 'that said pretended adjudication is not conclusive upon the State of Mississippi, inasmuch as she was not a party to the proceedings upon which it was based and had no notice thereof, either actual or constructive.'

"The general principle of law is that the judgment of a court of competent jurisdiction is binding *upon the parties only*. After the parties to a controversy have been heard or have had an opportunity of being heard, it is both just and proper that litigation should cease and the decision be final. The public good requires it. *Interest reipublicæ ut sit finis litem*. The general rule is based upon abstract justice and public policy, *both of which would be violated* by its application to the present case. The State of Mississippi was not a party to the proceedings at the special session. It is contended, I know, that she was substantially a party, and that she was present and heard in the matter through her agents and attorneys, Messrs. Claiborne and Gohlson, but this is a clear begging of the question. Mississippi denies that these gentlemen were her agents for the purpose of claiming seats in the Twenty-fifth Congress. They produced no power of attorney from her authorizing them to act for her in this behalf. The power of attorney which they received from the State authorized them to act as her agents in claiming seats *at the special session only*. This power of attorney was *suppressed*, and evidence given which deceived at least a portion of the House into the belief that the people of Mississippi had chosen these gentlemen as *their agents for two years*. All that Mississippi asks now is the right of showing that Messrs. Claiborne and Gohlson never were her agents to the Twenty-fifth Congress. If she can show this, surely no one will pretend that she is bound by the acts of pseudo-agents. This question of agency, which gentlemen so cavalierly take for granted, is the very gist of the controversy, the very matter in dispute; but the *petitio principii* is an exceedingly convenient mode of argument in a bad cause, and it is an excellent and ingenious practice to *assume* what you cannot *prove*.

"The only parties before the House at the last session were Messrs. Claiborne and Gohlson. Now if in the action taken by them in obtaining the decision of the House they were not the agents of Mississippi, but had transcended the authority delegated to them, then it follows that Mississippi was not directly nor indirectly, in point of fact or in legal contemplation, a party to the proceedings. That she had notice either actual or constructive no one pretends. I take it, then, to be clear that if she can show that Messrs. Claiborne and Gohlson exceeded the authority delegated to them in claiming seats for the whole term of the Twenty-fifth Congress, she can neither be considered party to, nor bound by, such unauthorized action on their part.

"I come now to the fifth and last branch of this subject, viz.: 'That said pretended adjudication was founded upon a palpable mistake, and that this House is bound to *review it*.'

"All courts, both of law and equity, review their decisions when they appear to have been based upon *palpable mistakes*. Courts of law by new trials and writs of error *coram nobis*, courts of equity by bills of review. And it would be strange indeed, when wrong is done through *mistake*, if there existed no power to rectify it. The mistake under which the House labored at the special session arose from its belief that the people of Mississippi voted for Messrs. Claiborne and Gohlson as Representatives to the *Twenty-fifth Congress* and intended to elect them for the whole term. In proof of this I refer to the speech of an honorable gentleman from Maryland (Mr. Howard), in which he bases a large portion of his argument and opinion in favor of the sitting members upon this supposed intention of the people,—in proof of the existence of which he expressly says, 'That they had the positive testimony of the sitting members in the shape of statements made in their places; while, on the other hand, the only evidence adduced to repudiate such statements was the proclamation of the governor, which, it was contended, constituted no evidence of the intention with which the people acted in the election held under its mandate.' I have been told, also, by many honorable gentlemen, that they labored under the same apprehension derived from the same source. Now was the term for which the people intended to elect, and did really elect, in July a *material fact*? and if so, did the House labor under a mistake in relation to this fact, and was the decision in any sort based upon such mistake? It seems to me that from the very nature of *representation* that the *intention* of the people constitutes the most material subject of inquiry in the investigation. Election is *choice*, and choice cannot exist without intention, which is the very soul and life of the whole matter. An election is, in fact, nothing more in all its forms than a mode of ascertaining the intention of the *electors*. When, therefore, that *intention* is fully and legitimately ascertained, the election cannot be construed as extending beyond the intent and object of the electors; in other words, the act should not be construed beyond the will of the actors. If, then, the people of Missis-

issippi did in July last intend to elect Representatives for three months only, and did in point of fact vote for the purpose of filling that *period of time alone*, is it not an absurdity and a falsehood to assert that such election was for two years? It does not affect the matter at all to say that they *had no right to elect for three months*, but had a *right to elect for two years*. The only result of such a proposition would be that the election was void, inasmuch as the people had attempted to do what the Constitution did not authorize them to do. It seems to me that no proposition can be clearer than this, that an *unconstitutional election for three months* cannot be considered a *constitutional election for two years*. To those members, then, who believed that the people of Mississippi had a right in July to elect Representatives to the whole of the Twenty-fifth Congress the question must be a material one whether they did in point of fact do it. The House was made to believe that this was the intention of the people, and many eloquent appeals were made upon this floor, and with great effect, as I am told, against too strict and technical a construction of the Constitution, which, it was asserted, would violate the acknowledged will and intention of the people. I trust, sir, that the same tender regard for the will of the people of Mississippi which pervaded the House at the last session will continue to influence it at present.

"But was this House mistaken in the view taken of the intent and object of the people of Mississippi at the July election? Of this there cannot exist the slightest doubt upon the mind of any candid man. I have traversed almost the entire State since the July election, and mingled freely with men of all political parties, and I assert as a matter of fact, without hesitation or fear of contradiction, that the electors who voted in July did not vote or intend to elect for a longer period than what intervened between that time and the regular election in November. No, sir, if the gentlemen and all their party could be saved, like the wicked cities of Sodom and Gomorrah, by the production of ten righteous men of any political creed in the State of Mississippi who would certify that the election in July was intended or holden for a longer period, still they would not be able to avert the destruction which is ready to fall like a consuming fire upon their heads. But I wish not to rest upon my own assertion only, notwithstanding opportunity has afforded me the means of deriving my information in the matter from the best possible source, the people themselves.

"What is the evidence before the House of the extent and object of the July election? First is the proclamation of the governor ordering the election for Representatives to fill the vacancy, 'until superseded by the members to be elected at the *regular November election*.' It is admitted on all hands that the governor only intended to order an election to the called session of Congress, and that upon the face of the writ an election is *literally ordered for that* portion of the term anterior to the general election. So far, then, as the executive action is concerned the intention is conceded to have been in accordance with the terms in which it is expressed. Now

did the people vote in obedience to the whole writ, or did they select a portion of it as a legitimate mandate and reject the remainder? In other words, did the people consider a portion of the writ surplusage, or did they act under it according to its admitted terms and meaning? In proof that they acted according to the whole command of the writ and elected only for that portion of the term therein specified, we have the evidence of two principal officers of the State, of opposite political sentiments, acting in obedience to the law of the State, under the responsibility of an oath, and both liable to impeachment if they have *officially asserted* a falsehood. The law of the State requires that after an election for Congress the Secretary of State shall sum up the votes returned and declare by publication the result of the election. In this instance he performed his duty and declared Messrs. Claiborne and Gohlson duly elected to 'the *called session* of Congress.' This was an official act of the Secretary of State, who was, be it known, a political friend of the members elect, and therefore cannot be supposed to have been actuated by any inclination unfavorable to their claims. The law of the State further requires, that upon such publication being made the governor shall issue proper credentials to the persons elected, etc. The governor did issue such credentials, in which he asserted the fact that Messrs. Claiborne and Gohlson had been elected only for that portion of time anterior to the November election. These two official assertions of the highest functionaries of the State in relation to the extent of the July election are certainly entitled to some weight, at least until controverted, for how can the intention of the people be better ascertained than through the very channels provided by their laws as the medium of its communication?

"But this is not all the evidence. Thirty days before the November election the same sheriff who had executed the governor's writ notified the people according to law that an election would be held on the first Monday and day following in November for Representatives to Congress, thus positively repudiating the supposition that the election which they had superintended in July was intended to fill the whole term. Here, then, is the evidence of more than fifty State officers, acting under oath, and asserting that the July election was not intended to supersede the November election. Again, at the November election about twenty thousand electors, a larger number than had ever before voted in the State, came forward and asserted at the polls that the July election was not intended to supersede the November election.

"Thus we have on one side the united testimony of the governor, the Secretary of State, fifty-one sheriffs, and twenty thousand electors, and what have we on the other side to counterbalance this great mass of evidence? The unassisted and unsupported verbal statements of the sitting members. The House was not only mistaken, but deceived; for the proper credentials issued by the governor, though in the possession of one of the gentlemen, were suppressed and never produced either before the House

or the committee. The evidence of their right, as appears from the last report of the committee, consisted of a printed statement of the vote in the several counties certified to be correct, but without date or any designation whatever of the time, place, or result of the election to which it professed to relate,—a sort of floating claim, which will be as good evidence of right to a seat ten years hence as it was at the special session. Sir, I do not make the *grave* charge of the suppression of evidence in the *ex-parte* examination which this matter underwent on a former occasion without ample reason. Indeed, one of the gentlemen not only openly admits the suppression, but with a boldness which seems to indicate a total want of sensibility as to the impropriety of his course avows that the reason why the proper and legal credentials were not produced arose from the fact that they limited his term of service to the special session.

"The following is the bold avowal made by Mr. Claiborne in his *written speech*, which has the peculiar good fortune to be placed upon the records of this House: 'The ordinary certificate of election or credentials were forwarded to my colleague, but never received by him. Those sent to me were received, but *perceiving* they contained the *limitation of the term of service* mentioned in the governor's writ to hold the election, *we* applied for and *obtained the statement* of the Secretary of State *to be used in their stead.*' It thus appears that the regular official evidence of the gentlemen's right to seats was *kept back* and *spurious secondary partial* evidence unknown to the law of the land introduced *in its stead*, upon the express ground that the primary and legitimate evidence did not sustain their claim to seats in the Twenty-fifth Congress.

"It is but justice, however, to Mr. Claiborne to say that he charges the committee with the whole odium of the concealment, for he says, in continuation of the remarks above quoted, 'All this was distinctly stated by us to the Committee of Elections of September last.' But the Committee of Elections does not see fit to communicate to the House this important fact in relation to the very certificate upon which they were instructed to report. Knowing, according to the statement of Mr. Claiborne, that a certificate of election was in existence, but kept back solely on account of its insufficiency to sustain the claim set up by the gentlemen possessing it, the committee, in *palpable violation* of the instructions of the House, neither *compel its production* nor *take notice of its existence*, but make a report favorable to the claimants, based upon partial and secondary evidence avowedly obtained for the *express purpose of avoiding the effect and operation of the certificate of election.*

"The committee have not denied the assertion of Mr. Claiborne that he informed them of these facts. Possessing the information, I know not how they could reconcile it with their consciences to conceal it from the House. However, it is with the facts and not with the consciences of the committee that my business lies. The facts which I have stated are now uncontroverted. I leave them without comment to the judgment of this

House, with this single question, Were not many honorable gentlemen deceived and mistaken as to the intention and extent of the July election? And did they not consider that intention a material fact in arriving at a conclusion favorable to the claim of the sitting members?

"In conclusion of this branch of my argument, I have only to say that I have looked and listened in vain for the reason and authority upon which to sustain the assumption taken by my opponents that this House cannot review or reverse its previous decision.

"Let us examine the position a moment. By what rule is this House imperatively governed and bound in its own proceedings? First, by the Constitution of the United States and the laws passed in pursuance thereof; and, secondly, by the regulations adopted for its own government so long as these regulations remain unrescinded. It is bound no further. The rules of proceedings in courts of justice are of no force in this hall beyond what propriety and a sense of justice may warrant. There is no provision in the Constitution, the laws, or the regulations adopted by this House which forbids a review and reversal of the decision of the last session. The analogies drawn from the courts of law address themselves only to the *propriety, not to the right* of this House. From the technical arguments so elaborately deduced from that source one would rather suppose this was a county court than the high court of parliament.

"*It would be strange indeed if the American Congress was the only body in which wrong once committed is incapable of reparation, and error hardened into judicial decision becomes impervious to truth.* The House by referring the subject to a committee acknowledged jurisdiction over it, and has thereby decided the matter to be *still within its control*; for it would be a mockery, after having proceeded for weeks through its committee in the investigation, now to say that it has the *power to examine* but not the power to conclude, the power to hear but not the power to judge.

"I have thus, Mr. Speaker, endeavored to show not only that this House has the power to review its former decision, but that justice requires it to exercise that power. I have endeavored to clear the way to the examination of the great constitutional question involved, and trust my labor has not been entirely without success. Upon the supposition that the House will come to the conclusion that if wrong has been done no principle stands in the way of its reparation, I shall proceed to the examination of the propositions laid down in the early part of my argument. And first, that the election of Messrs. Claiborne and Gohlson in July last was unconstitutional, null, and void.

"The election was holden in July by virtue of the proclamation of the State executive. Two questions arise: First, had the governor of Mississippi constitutional power to order at that time an election for Representatives to the Twenty-fifth Congress? Second, did he exercise the power? First, had he the power? He had it not by virtue of any provision in the constitution or laws of *the State*. All his authority over the

subject of election of Representatives to Congress is derived from the Constitution of the United States, and is embraced in the following clause, Article 1, Section 2: 'When vacancies *happen* in the representation of any State, the executive authority thereof shall issue writs of election to fill such vacancies.' Upon the construction of this clause the whole controversy as to the first point hinges. Let us, then, endeavor to ascertain what the framers of the Constitution meant by 'a vacancy in the representation from a State.'

"The best rule of interpretation is to ascertain, if practicable, the intent and object of the law-giver, and then so construe the words as to cover the intent and attain the object. This intent may be best ascertained by a consideration of the necessity which gave rise to the provision. The framers of the Constitution in prescribing the general modes through which the right of representation should be exercised, very wisely concluded that the regulation of this most important of all political rights should be placed in the hands of the Legislatures of the States respectively, as the safest depositories of so important a trust. Accordingly they provided by the fourth section of the first article, that 'the times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the place of choosing Senators.'

"Here the power of prescribing the time, place, and manner of holding elections for Representatives *is not given to the State executive in any contingency*, but to the *State Legislature*, subject to no paramount authority except a law of Congress. But if the Constitution had stopped here it would have been defective; for though the State Legislature, knowing when the regular term would expire, could regulate the time, place, and manner of elections to fill the term, yet they could not foresee and provide for vacancies which might *happen* in the representation *after the term is filled*. The *regular vacancies*, which must occur in the office biennially and at stated periods, could of course be foreseen and provided for by legislative action. The power to provide for the filling of these periodical vacancies in the *office* of Representative was clearly placed with the State Legislatures, subject to the control of Congress. But inasmuch as vacancies might happen in the *representation* from a State chosen according to law to fill the term, by contingencies of various sorts, such as death, resignation, etc., and inasmuch as the State Legislature not being always in session could not conveniently provide for or act upon such unforeseen contingencies, it was thought proper to make it the duty of the State executive to notify the people and direct an election to be held when such an event occurred. For though the people know by the general election law when they shall convene and elect their Representatives for each Congress, yet having once elected them they cannot be supposed to know when a vacancy *happens* in such representation, neither can any law

notify them. It is, therefore, rendered the duty of the executive to issue his writ for the purpose of informing them that a vacancy *has happened*. This of itself shows that it was not intended to give the executive the power to order an election to fill the regular *periodical vacancies* which constitutionally occur every two years in the *office* of Representative, but only such vacancies '*as happen in the representation* from a State' after such a representation has been created under the general election law; for if so, what necessity for a writ to notify the people of that of which by the Constitution they are already apprised? The terms of the Constitution, which clothe the executive with all the power which he possesses on this subject, are peculiar, and have never before formed the subject of direct decision. The phraseology differs remarkably from that used in relation to senatorial vacancies to be provided for by executive appointment. The language in the latter case, 'And if any vacancies happen by resignation or *otherwise* during the recess of the Legislature of any State, the executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.' Here the term vacancy is generally used, and might, with some show of propriety, perhaps, be applied to the *office* itself. But not so in relation to the provision under discussion, the term vacancy in this case applies not to the *office*, but to the *representation*. It is not 'when a vacancy happens,' nor 'when a vacancy happens in the *office* of representation,' but 'when vacancies happen in the *representation* from any State, the executive authority shall,' etc. Now I hold that the office is one thing and the *representation* which exercises or fills the office another, and that though there cannot be a vacancy in the representation without a vacancy in the office, yet there may be a vacancy in the office without a vacancy in the representation. The representation from a State consist of the persons chosen to fill the *Representative offices* of that State.

"The representation expires or goes out of office on the 3d of March biennially by constitutional limitation; *at least such is the construction which has always been recognized* by the government. Messrs. Claiborne and Gohlson constituted the representation from the State of Mississippi in the Twenty-fourth Congress. Their term of service and the Twenty-fourth Congress both expired on the 3d of March last. In July the governor issued his writ to fill vacancies in the *representation* from the State to the Twenty-fifth Congress, but there had never been *any representation* from the State to the Twenty-fifth Congress. How, then, could there have been a vacancy in what never had existed? In other words, how could there be a *vacancy in a vacancy*? There was when the governor issued his writ, and ever had been, not vacancies in the *representation* from the State, but a total vacancy of representation to the Twenty-fifth Congress.

"Whatever may be the correctness of my views upon this point, no one will deny that the language, spirit, and intent of the Constitution com-

bine to place as far as practicable the matter of elections for Representatives and Senators under the control of the State Legislatures, and not under the control of the State executives. The power of the State executive was manifestly intended to complete and perfect the system by embracing that portion of the subject upon which legislative action would be inconvenient or impracticable. Indeed, so vitally important was it considered to the independence of the States that the legislation should be entirely untrammelled in prescribing the time, place, and manner of elections, that it was with great difficulty that the States were persuaded to acquiesce in the controlling power given to Congress to make or alter by law the State regulations. If you will look, sir, into the debates in the different conventions upon the adoption of the Federal Constitution, you will find that no provision was more debated or received with greater jealousy. All the States took the ground that the most important of their political powers consisted in the control through their Legislatures over the time, places, and manner of election, and the ultimate supervisory power was reluctantly placed with Congress upon the express ground that it was necessary for the preservation of the government; that without this provision the States might neglect to make any regulations on this subject, or might fix the times of election at such periods as to prevent a representation, and thereby cause a dissolution of the government. It was admitted in all the debates that this power of providing for a deficiency or failure of action on the part of the State Legislature did not and could not with propriety reside anywhere else than in Congress. Still, the States were so jealous on this subject that most of them accompanied their ratifications of the Constitution with a solemn protest against the exercise by Congress of this power, except in cases of failure or neglect on the part of the State Legislatures, and also with standing instructions to their delegates in all future time to obtain as early as practicable an amendment of the Constitution limiting the action of Congress on this matter to such cases of neglect and failure only. The ratifications of South Carolina, North Carolina, Virginia, Pennsylvania, New York, Rhode Island, and Massachusetts, if not others, contain such protests and instructions.

"In all the commentaries upon this provision of the Constitution, in the able essays of the *Federalist*, in the interpretations of that able jurist, Judge Story, in the legislative construction of all the States, it has been considered as well settled as any other principle of the government that the power to provide for any failure or neglect or improper regulation on the part of the State Legislatures in relation to the *time*, places, and manner of election resides nowhere except in a law of Congress. That the power of supplying a deficiency of legislative action on this subject exists, as has been advanced in this discussion, in the governors of the States is a doctrine not less novel than absurd. The second section of the first article, by which such power is supposed to be conveyed, was deemed so trifling in its character and so incapable of misconstruction

that it was never once alluded to in the debates in convention of any State nor in the commentaries of any writer. It remained for the boldness of the present day to assert that this clause contains the great conservative principle, the self-preserving power which the foolish framers of the Constitution and the blind generations which came after them imagined had been embraced in the fourth section and confined in its exercise to Congress alone.

The whole power and jurisdiction over the subject is by the Constitution divided between the State Legislatures, subject to the control of Congress and the State executive. Now there is no principle of our government more important or better settled than that which limits the exercise of a power to the department in which it is constitutionally deposited. It is this principle more than any other that constitutes the beauty and safety of our political system. The executive cannot exercise legislative nor the legislative executive functions. Whatever, then, may be the meaning of the clause, 'When vacancies *happen* in the representation from a State, and it is clear that the power and jurisdiction to direct elections to fill such vacancies belong exclusively to the executive authority of the State,' no one, I imagine, will contend that the Legislature could direct elections to fill such vacancies. So, on the other hand, it will hardly be contended that the executive can exercise the legislative power given in the fourth section of the first article. The powers, whatever they may be, are distinct and independent.

"I have attempted to show by a fair construction of both sections that the legislative authority embraced the general election, and prescribed the time, place, and manner of the election to fill the term, after which election the executive jurisdiction attached with power to supply all vacancies which might happen in the representation so previously elected. This construction prevents the executive and legislative power from clashing, is consonant with reason and the spirit of the Constitution, and is based upon principles which have been repeatedly recognized. The case of John Hoge (page 135, Contested Elections) involved the question whether in the absence of any legislation on the subject the governor of a State could, when a vacancy had happened in the representation from the State, not only issue his writ, but fix in it the time and place of election. It was decided that he could, and upon the express ground that the fourth section of the first article, giving the Legislature the power to fix the time and the place, applied to *general elections*, and not to cases of vacancies which might happen, and that the power given in the second section to the executive authority was an exclusive independent power, carrying with it all the incidental powers necessary for its complete exercise. I understand it to be expressly recognized, both by the decision and the arguments in the case, that the executive and legislative powers over elections are distinct and independent, and not concurrent; that the general election law of a State has no application to such cases as come within

the jurisdiction of the executive, but that the executive can in such cases act without any regulation or law upon the subject.

"The case of Kensey Johns (Contested Elections, page 874) is still more in point. The facts were these: George Read, Senator from Delaware, resigned his seat on the 18th of September, 1793, during the recess of the Legislature. The Legislature met in January and adjourned in February, 1794, without electing a Senator. On the 19th of March, after said adjournment, Kensey Johns was appointed by the governor to fill the vacancy. Upon this state of facts the committee reported the following resolution, which was adopted by a vote of twenty to seven: '*Resolved*, That Kensey Johns, appointed by the governor of the State of Delaware as a Senator of the United States for said State, is not entitled to a seat in the Senate of the United States, a session of the Legislature of said State having intervened between the resignation of the said George Read and the appointment of said Kensey Johns.'

"Now this case was decided obviously on the principle that after the jurisdiction of the Legislature attached the executive power ceased. And the failure of the Legislature to exercise jurisdiction and perform its duty did not reinvest the executive with any authority over the subject; yet after the adjournment of the Legislature there was, according to the doctrine of my opponents, a vacancy, which had *happened* by the failure of the Legislature to do its duty. And so far as arguments of necessity or convenience were concerned, it was incumbent upon the governor, as much as the case now before the House, to have filled the vacancy. From the decision in Kensey Johns's case, as well as from the general principles of law, I lay down the following rule: That the failure of one department of government to exercise a constitutional power does not authorize another department to exercise it, unless such authority is expressly delegated by the Constitution.

"I have already laid down the rule deduced from the case of Hoge. That the legislative authority to fix the time, place, and manner of election and the executive authority to issue writs to fill vacancies are entirely distinct. In other words, that the second and fourth sections of the first article convey separate and independent and not concurrent powers.

"Let us apply these rules to the present case. And, in the first place, let us see whether the Legislature of the State of Mississippi has by any law fixed the time, place, and manner of election for Representatives. The general election law of that State, enacted the 2d of March, 1833, prescribes the places and manner of all elections, and expressly directs that the election of Representatives to Congress shall take place on the first Monday and day following in November of every second year. It will be seen by this provision that the time for the general election is *fixed several months subsequent to the expiration* of the previous (Congressional) term. Is this a constitutional law? In other words, have the State Legislature the constitutional power to fix for the general election of Representatives to Con-

gress a time subsequent to the expiration of the Congress preceding that for which the election is to be holden? Will any one dare to say they have not the constitutional power? If they have it not, what will become of the delegations of half the States who at this very moment hold their seats by virtue of elections holden since the 4th of March last, at the times prescribed by the Legislatures of their respective States? If they have it not, what Congress since the formation of the government has been constitutionally composed? Sir, if this House denies the power of the Mississippi Legislature in fixing the election of her Representatives to the Twenty-fifth Congress to a period subsequent to the expiration of the Twenty-fourth Congress, then are one-half its members bound to accompany me out of this hall.

"The policy of late elections is a good one, for it increases the accountability of the Representative to his constituents, and renders him more amenable to their judgment. Before he can be re-elected his whole course is subject to be canvassed, and at the bar of public opinion he is compelled to answer for the deeds done in the body. Indeed, so favorable has this policy been viewed that in 1825 a member from North Carolina introduced into this House the following resolution: '*Resolved, That a committee be appointed to inquire into the propriety of altering the election laws of the several States, so as to provide that no election shall take place for members of the House of Representatives of the United States until the term of service shall have expired for which they had been elected.*' This resolution was referred to a select committee, and though the committee afterwards reported that it was inexpedient at that time to make any change in the election laws of the several States, yet this very report (at a time when so many States pursued this mode) shows that such election laws were recognized as constitutional and proper. The case of Herrick, which you will find among your contested elections, and than which no case of the sort was ever more ably or fully discussed, recognizes and sustains the same principle, nor can a case or an authority be found to repudiate or deny it.

"The only limitation to this power of the Legislature is contained in the first section of the first article of the Constitution, which provides that Representatives *shall be chosen every second year*. If the law of Mississippi does not violate that clause then it is constitutional, and *no power on earth except the power which made it*, or a law of Congress, can abrogate it. Should the Legislature of any State refuse to appoint a time for election, or appoint it at an improper period, then it would doubtless be the duty of Congress to interfere, and by its paramount authority regulate the matter. Each State is interested in being duly represented in Congress, and that interest was considered sufficient to warrant a ready action on the part of their Legislatures in prescribing a proper time, place, and manner of election. But inasmuch as it interests the whole nation that every State should be represented, the power was given to Congress of

altering the State regulations, or making new ones should necessarily require it. To have placed an additional control over the State regulations in some third department would have been absurd and unnecessary, for Congress is surely a safe and ample depository of the national rights and interests in the matter. At any rate, it is hardly to be supposed that the Constitution would have adopted the State executives as such third department to protect and preserve the Federal government upon the failure of the State Legislatures and Congress to do their duty.

"I take it, then, to be perfectly clear that the State Legislatures can constitutionally fix the time for the general election of Representatives to Congress at a period subsequent to the expiration of the previous term, and that such a regulation is of binding force until changed or abrogated by a law of Congress. If I am correct in this conclusion, then the law of Mississippi fixing the first Monday and day following in November of each second year as the time for the election of her Representatives is a constitutional and valid law, for Congress has neither changed nor abrogated it. Under that and in pursuance of all its provisions I have been elected a Representative from the State of Mississippi. If the law is constitutional, then I am the constitutional Representative of that State. It is an absurdity in terms to admit the validity of the law and at the same time oppose its operation and deny the validity of its legitimate action.

"Suppose the governor had not ordered a special election in July and I had presented myself with the credentials which I now hold, showing my due election in November under the general election law of the State, would there have been a moment's hesitation in admitting me? Certainly not; for by precisely the same tenure the members from half the States now occupy their seats. It is contended by the sitting members, however, that on the 4th of March last there *happened* a vacancy in the Twenty-fifth Congress within the contemplation of the second section, and that the governor had authority to issue his writ to fill it.

"In regard to this position, there is no doubt that on the 4th of March the *office* of Representative from the State of Mississippi in the Twenty-fifth Congress was vacant, and, of course, there was a vacancy in the office, which continued up to the time on which the governor issued his writ. But I have already attempted to show that it was not a vacancy which happened in the representation from that State within the meaning of the second section of the first article. It was one of those regular stated and periodical vacancies for which it was the duty of the Legislature, and not of the executive, to provide, and for which the general election law of the State does, as I contend, make full constitutional provision. All elections, whether general or special, whether by law or by executive authority, are to fill vacancies, for an office must be vacant before it can be filled, and a power to fill all vacancies would be a power to fill all offices. It is true, as the gentlemen say in their argument, that the propriety of filling a vacancy does not depend upon the particular mode of its happening, but

upon the particular mode of its happening may well depend the propriety of placing the power of directing the time, place, and manner of filling it in the hands of the Legislature instead of the executive. The Constitution intended that all vacancies should be filled; but it gave to the Legislature the authority to direct the filling of the regular periodic vacancies, and to the executive the direction in filling vacancies which were unforeseen and the result of accident and contingency. Each of the depositories may neglect to exercise the delegated power, but such neglect does not transfer the power. Will any one contend that upon the resignation of a Representative and the delay of the governor in issuing his writ the Legislature could order the election to fill such vacancy?

"It is conceded on all hands that the proclamation of the President convening Congress did not create the vacancy, but that it existed as fully on the 4th of March as when the governor issued his writ to fill it. Now, for the sake of argument, admit that it came within the meaning of the second section of the first article, and let us see the result. At what time must the governor issue his writ ordering an election to fill a vacancy? The Constitution says, 'When vacancies happen in the representation from any State the executive authority thereof shall issue writs,' etc. The happening of the vacancy, then, indicates the time when the executive authority shall act. His duty is clear and positive; he has no discretion whether he shall act or not. His only discretion is that which necessarily attaches to the exercise of the duty in the fixing of a reasonable time, place, and manner of election. The issuing of his writ denoting the time, place, and manner is a duty incumbent upon him so soon as he is aware that a 'vacancy has happened.' The vacancy under consideration, if it happened at all, happened on the 4th of March. It was a regular anticipated and foreseen vacancy. The governor knew beforehand when it would happen, and was bound immediately upon its happening to obey the imperative command of the Constitution and issue his writ of election.

"The Constitution does not say when 'Congress is convened,' or when 'an emergency arises,' or 'when the executive deems it expedient and necessary he shall issue his writs of election,' but when vacancies happen he shall do it. The argument of Messrs. Claiborne and Gohlson submitted to the committee at the special election presents probably the first instance on record of a grave attempt to prove that the executive authority of a State is not bound to perform an act which the Constitution expressly commands, unless he thinks the performance of such an act necessary and expedient, and that if he thinks no inconvenience is likely to result from his failure to obey the command he need not obey it; in other words, that the performance or non-performance by the executive of constitutional duties depends entirely upon executive discretion. Surely these are new and elastic principles of constitutional law, and must be exceedingly palatable to executive taste.

"I have always understood that when the Constitution directs the per-

formance of an act by a ministerial officer the direction itself is a constitutional decision that such act is necessary, and that the agent to whom the performance is assigned has no right whatever to interpose his discretion or judgment as to its expediency or necessity. I take it, then, that the provision making it incumbent upon the executive authority to issue his writ when vacancies happen is of itself a constitutional decision both of the necessity and expediency of the act whenever the contingency occurs. If I am correct in these positions, and this was a vacancy within the second section of the first article, it follows as a matter of course that the governor was bound, immediately after the 4th of March (the time when it happened), to issue his writ of election, and that he had no discretionary power to abstain from the act.

"Now if the executive authority was bound on the 4th of March to issue his writ of election to fill the vacancy, it seems to me clear that the law of Mississippi professing to provide for filling the same vacancy in November following is an unconstitutional law and a nullity. The Constitution has made no provision that the Legislature shall act in those cases in which the executive shall have failed to do his duty. All the power of the Legislature is original and independent of executive action. If, then, the framers of the Constitution intended to embrace in the second section of the first article the cases of periodical vacancies arising from the expiration of the previous term of office, they must have considered that full provision was made for the filling such vacancies in the injunction placed upon the executive authority to issue his writ whenever they happened. I say they must have considered so, for they nowhere made any provision to supply the failure of executive action. It is obvious under such a construction that the State Legislatures have no power to pass general laws fixing the times for election of Representatives at periods when by constitutional provision and in constitutional contemplation the office has been already filled through the executive authority. In other words, it would be absurd to construe the Constitution as giving to the Legislatures power to do what in constitutional contemplation was already done.

"But suppose the gentlemen are right in their proposition that the State executive may issue the writ or not at his discretion, I understand them to admit that if the State executive fails to issue his writ the election under the general law would be good. It is also admitted on all sides, and fully decided in the case of Hoge, that the State executive has the power in his writ of election to designate the time and place. Let us see how these propositions can stand together. Suppose the governor of Mississippi had issued his writ, and, according to the authority which the gentlemen ascribe to him, had ordered an election to be holden at the same time prescribed for the general election, but at different places from those designated by the law; suppose a portion of the people had voted at the places fixed by law and the remainder at the places appointed by executive

authority; two sets of Representatives are chosen which are entitled to seats; the elections are simultaneous, but under two distinct authorities, each claiming the constitutional power to order and direct the same. My opponents admit that each possesses the power, but both cannot, of course, exercise it. In the case supposed they come in direct collision. Which is paramount, the *law* of the State or the *executive writ*? But if the powers are concurrent, it is a clear principle that where there are concurrent jurisdictions that which attaches controls the subject-matter. Now the law of the State fixing the time for election of Representatives to the Twenty-fifth Congress on the first Monday of November was enacted, and of course its jurisdiction attached, long before the governor claimed his jurisdiction and issued his writ. It is admitted that but for the executive action the election of November would have been valid. This drives the gentlemen inevitably to the position that the authority of the State executive is paramount to the law, and that every law either of the State or Congress fixing the time for Representatives after the expiration of the previous term can at any time after such expiration of the previous term be abrogated and utterly annulled at the discretion of the State executive.

"Suppose Congress, under its constitutional power to make or alter the election laws, had passed the very law that Mississippi has enacted; still, according to the gentlemen's argument, such a law would have been entirely at the mercy of the State executive. This is nullification with a vengeance. South Carolina claimed the power to nullify an unconstitutional law of Congress. My opponents contend for the right in the *State executive* to nullify an *admitted constitutional law*, either of the States or of Congress, for the principle is precisely the same whether applied to the law of the State or of Congress. The law of the State of Mississippi is either constitutional or not. If it is constitutional, then the appointment of the first Monday of November for the time of election is a constitutional decision by the constitutional authority that the first Monday of November is a proper time for such election. The Legislature has exercised in fixing that time the general discretion which by the Constitution it undoubtedly possessed over the subject. It may have exercised it improperly; the period fixed may be too late for public convenience and the general interest; but so long as the law continues to be constitutional the time designated in it is constitutionally right and proper. But it may be asked, Is there no remedy? Can the States by improper regulations on this subject stop or impede the operations of the government? This question has already been answered in a previous part of this argument.

"The sage founders of our political system contemplated the possibility that the States might refuse to make any election laws, or might make improper ones, and in consequence expressly delegated to Congress the power to make or alter such regulations. The discretion of Congress in deciding what is the proper time is thus made paramount to that of the

State Legislatures. But in the present instance Congress has not thought it necessary to alter the State regulation. This of itself is an admission on the part of Congress that the State Legislature has not improperly exercised its discretion. It has, then, been decided by the Legislature of the State of Mississippi, having by the Constitution full and express jurisdiction over the matter, that the first Monday of November last was a proper time for the people of the State of Mississippi to elect their Representatives to the Twenty-fifth Congress.

"This decision has been recognized by Congress as correct by its failure to interpose its supervising power to alter the regulation. And yet the monstrous doctrine is advanced by my opponents that there resided in the executive breast a special discretion paramount to the general discretion of the State Legislature and Congress combined, and fully competent to decide that November was not a proper time for the people to elect Representatives, but that July was, and accordingly to alter the time from November to July. Will gentlemen point out to me the clause of the Constitution conferring upon the State executive so strange and anomalous a power?

"I have offered these views to show the absurdity of admitting the right of the State Legislatures to fix the time for the general election subsequent to the expiration of the previous terms of office, and at the same time to contend for the position that such periodical vacancies in the office fall within the provision of the second section of the first article, and are subject to be filled by virtue of the executive authority. The error into which gentlemen fall in the interpretation of this second section arises from a disregard of one of the most obvious rules of construction, which is, that where there are several provisions in regard to the same subject they must be construed together. The same provision and the same words, when taken independently, will frequently authorize a construction totally at war with that which will be at once acknowledged as the legitimate meaning when the provision is construed in connection with others on the same subject.

"Did the section of the first article of the Constitution stand alone it might undoubtedly bear a construction broader than that which I apply to it, perhaps even as extensive as that for which my opponents contend; and it seems to me that the committee on a former occasion, in considering this clause, did construe it as entirely independent, and with a total disregard to the other constitutional provisions, *in pari materia*. Now it is perfectly obvious that this clause cannot be fairly interpreted except in connection with the fourth section, which relates to the same subject. The second section gives the executive certain powers over the subject of elections. The fourth section gives to the State Legislatures certain powers over the same subject.

Now before defining the extent of the powers delegated in either of these clauses let us settle a preliminary question. Do these two clauses convey concurrent or independent powers? I have already asserted my

views upon this point, but I cannot refrain from again calling to it the attention of the House. I assert the powers to be independent; that one is the complement of the other; that where the authority of the State Legislature ceases there the executive authority commences; thus embracing the whole subject and constituting a harmonious circle of power. I have shown from the precedents of this House that this principle has been long recognized and adopted as a rule of action. In the case of Hoge it was expressly decided that cases coming within the operation of the second section of the first article do not come within the operation of the fourth section. I have further asserted the principle that in the distribution of the powers which in their aggregate form the Federal government the Constitution does not contemplate or authorize in any instance the exercise by two different departments at the same time of the same power over the same subject-matter. The adverse construction would involve an absurdity. A constitution authorizing such a duplicate action would be so defective that government could not be carried on under it. Like a piece of badly-constructed machinery, in which the wheels interfere with each other, it would soon fall in pieces by the collision of its own parts.

In construing the two sections of the Constitution which regulate the elections to this House we should endeavor to prevent their clashing, and not interpret one at the expense of the other. We must give such a construction as will let both clauses live, *ut res magis valeat quam pereat*. The construction which I have attempted to establish is of this character. I contend that the legislative authority alone can prescribe the time of election for filling the *regular periodical vacancies* which constitutionally arise from the expiration of each Congress, and that the executive jurisdiction only extends to such vacancies as happen by *accident and contingency* in the *representation* after the legislative action has been exhausted. By my construction the two clauses can both stand without conflict. By the construction of my opponents they clash harshly together, and one is compelled to give way to the other. The law of the State is forced to bend to the discretion of the State executive. Like the mistletoe bough, which flourishes at the expense of the tree to which it is attached till the exhausted parent dies in the greedy embrace of its ungrateful offspring, so does their construction of the executive power eat out and destroy the legislative authority upon which it was originally engrafted.

"Gentlemen are forced to admit that a State Legislature can fix the time for the election at a period subsequent to the expiration of the previous term, while at the same time it is contended that in all such cases the State executive may designate for the election such time as he pleases. Now to be consistent they should deny the existence of this power in the Legislature, for it involves an absolute absurdity to claim for the executive of Mississippi the right to fix the time for the election in July, and at the same time to admit the existence of a legislative power to direct

the holding of the same in November. The Legislature of Mississippi did by law direct that the Representatives to the Twenty-fifth Congress should be elected on the first Monday and day following in November; the executive authority of the same State did direct an election (which gentlemen contend was also for the Twenty-fifth Congress) to be holden at July preceding. Now it seems to be self-evident that either the legislative or executive action was without constitutional sanction, for the act of one is clearly invalid. The accidental call of an extraordinary session of Congress and the embarrassing condition of the country are not, either separately or combined, sufficient to suspend the operation or validity of a constitutional law. I take it that such considerations have no legitimate bearing whatever upon the question in controversy. Let, then, gentlemen boldly and directly take the ground which they have indirectly taken; let them assert at once the position that the State Legislatures cannot constitutionally fix the election of their Representatives to Congress at times subsequent to the expiration of the term preceding that for which the election is to be holden, *for this position is the necessary consequence of their assumption* that this very power resides in the executive.

"If the view of the Constitution which I have taken be correct, then the governor of Mississippi had no power to order an election in July last, and the election held under his mandate was unconstitutional and void. If, however, I am mistaken in my construction, and the governor had the power to supersede the law and order an election for the Twenty-fifth Congress, the question then arises, Did he exercise it? The proclamation or writ of the governor, after reciting that a vacancy had happened by the expiration of the previous term of service, commands the different sheriffs to hold an election for Representatives to fill such vacancy '*until superseded by the members to be elected at the next regular election on the first Monday and day following in November.*' The proclamation or writ, it will be perceived, does not, in point of fact, order an election for the whole of the Twenty-fifth Congress, but only for that portion of it anterior to the general election in November, and upon its face does not authorize an election for a longer period; but under the creative power of the majority of the Committee of Elections it has grown up into an ample authority for holding an election to fill the whole term.

"The ratiocination by which they arrived at this remarkable conclusion is a curious specimen of argumentative absurdity. The governor, say these syllogistic gentlemen, had no right to order an election for a period less than the *unexpired term*. He did, however, we admit, order an election for only a small *portion of the unexpired term*; but we will reject as *surplusage* all that portion of the writ which relates to the time for which the election was to be holden, and then it will appear as if the governor issued a writ for the whole vacancy, though we know, in point of fact, that he did not. The writ orders an election for three months only, but by rejecting a portion as surplusage *we shall have two years left*. Like

the leaves of the sibyl, the writ will grow in value as it diminishes in quantity; the more we take from it the larger it will become, and by lessening it one-half we increase it fourfold. Truly, had these gentlemen lived in ancient times they would have puzzled the sphinx with their riddles and scholars with their logic. They have performed a miracle greater than that which illustrates the history of the widow's cruse. The widow continually used of the oil, yet the cruse always remained full. These gentlemen, by using the governor's writ, not only do not diminish it, but enlarge its abundance.

"But what is this doctrine of surplusage? Surplusage in legal definition, as well as in common parlance, means a *superfluity, more than enough*. Now the writ in this case does not contain any superfluity of substance or meaning; the defect complained of is that it does not contain enough. The substance of the mandate is an election for three months, when, as gentlemen contend, it should have been for two years. There is clearly, then, nothing of *surplusage in the substance of the writ*. If there are more words than are necessary to contain the substance of the mandate it would constitute a verbal surplusage, and such unnecessary words might be rejected. This, however, is not the case. The words rejected by the committee as surplusage form a component and essential part of the mandate. It is manifest that there is no superfluous substance to reject, for the complaint arises from a deficiency, and I know of no rule by which in the construction of an instrument you can reject words as surplusage which form an essential part of the meaning, *when by such rejection you change entirely* the substance and character of the document. Gentlemen say that the governor had no right to *limit the term of service*. The conclusion, then, is that he has issued an unconstitutional mandate. If so, it is void. What right have you to construe an unconstitutional act into a constitutional one in violation of the admitted intent and express meaning of the actor?

"You say the governor had the authority to issue a writ of election for the whole unexpired term. Very well. The answer is, and it seems a satisfactory one, *he has not done it*. Suppose he had issued no writ at all, could you have rejected his neglect as surplusage and sustained an election held without his mandate? It seems to me you could do it with as much propriety as you can sustain an election for two years under a writ ordering one for three months. If by construction eighteen months can be forced into a writ against its admitted meaning, I see no reason why the whole writ may not be *created* by construction. It is perfectly obvious that, whether the governor had or had not the power of ordering an election for the whole unexpired term of the Twenty-fifth Congress, he has never exercised or attempted to exercise such power, and it would be a monstrous doctrine to assert that constructively he did what you admit, in point of fact, *he did not do*.

"From these considerations as well as from the position which I have

endeavored to demonstrate, that the governor had no constitutional authority to order an election in July, I come to the conclusion embraced in my first general proposition, to wit, 'that the election in July last, under which the sitting members claim their seats, was unconstitutional, null, and void.'

"This brings me to the second proposition, that the election in July, if good for anything, was good only for the period anterior to the general election. I shall say but little upon this point, inasmuch as most of the principles applicable to it have been already discussed in the previous argument. I am decidedly of opinion that there was no vacancy whatever within the meaning of the second section of the first article. But if there was, what was its extent? It seems to have been taken for granted that it must necessarily be the whole of the unexpired term. Upon what principle, however, has this conclusion been adopted? The Constitution does not define a vacancy, and the very reasoning by which the gentlemen arrive at the conclusion that there was in July a vacancy within the executive jurisdiction would limit its extent to the regular November election.

"The reasoning which sustains the power of the governor is based upon the doctrine of necessity, and upon the supposed constitutional intention of authorizing provision by the executive writ for any failure of legislative action. This is the ground taken by my opponents. Admitting its truth, then the fair measure of the executive power will be the deficiency of legislative action. Now the deficiency of legislative action extends only from the 4th of March to the first Monday in November. After that ample constitutional legislation embraces the subject, and fully relieves it from any further necessity for executive assistance. By extending the power of the governor beyond the time for the general election you carry it further than your own construction of the Constitution warrants, and make it trench upon and overrun the admitted constitutional action of the State Legislature. From the arguments and upon the views of my opponents themselves, I should feel compelled to define the meaning of the word *vacancy*, as used in the second section of the first article, to be 'that portion of the office the *filling of which* is unprovided for by constitutional legislation.' Neither necessity, convenience, nor legitimate construction can extend the definition. If it be correct, then there was a vacancy unprovided for by law, extending from the 4th of March to the time of the general election in November, and the governor's writ was in exact accordance with his constitutional power.

"The only provision in the Constitution in relation to the term of service is that contained in the second section of the first article: 'The House of Representatives shall consist of members chosen every second year,' etc. Now this provision manifestly applies only to the general elections, and is simply a limitation of the power given to the State Legislatures to fix the times, etc. Under this clause the State Legislatures are bound to provide for a general election every second year. The clause

cannot have any application whatever to elections for filling vacancies. Members may be chosen to fill vacancies not only every second year, but every second month, should they happen so often. The assumption of my opponents that a vacancy must necessarily extend to the whole unexpired Congress is unsupported by any constitutional provision, and totally at war with the very principles upon which they base the governor's vacancy-filling power. I come from these considerations to the conclusion that if there was a vacancy within the jurisdiction of the governor it extended to November only, when the regular legislative jurisdiction attached, and consequently that the election in July last, if good at all, was only valid for the period anterior to the general November election.

"This brings me to the third and last proposition with which I set out, viz.: 'That in November last my colleague and myself were constitutionally and legally elected Representatives from the State of Mississippi to the Twenty-fifth Congress.' If I have succeeded in demonstrating *either* of the first two propositions, this one will follow as a matter of course.

"The Constitution of the United States authorized the Legislature of Mississippi to fix the times, places, and manner of elections for Congress. I have already endeavored to show that the Legislature did, in the constitutional exercise of that authority, prescribe the time, places, and manner, and that under and in pursuance of all those regulations my colleague and myself were elected on the first Monday and day following in November last. Of all this the House has ample evidence through the official organs of the State. There is no controversy as to the result of that election.

"The House judges of the election qualifications and returns. Was there any defect in the election? If so, point it out. Was it not conducted in full accordance with the Constitution of the United States and the constitution and laws of the State of Mississippi? If not, show the variance. Well, then, the *election* was a valid one. On the score of *qualification* is there any objection? None. No one doubts or denies the qualifications of my colleague and myself. Of the *returns*, are they not legal and satisfactory? Not a whisper has been breathed to the contrary. Upon which branch of the jurisdiction will the House base an objection? Upon *election, qualification, or return*? If no valid objection arises out of either of these three points, then we are entitled to seats, for beyond these three points the jurisdiction of the House does not extend.

"If the July election was void or extended only to the November election, then the latter election *must inevitably be sustained*, unless there is something averred and proved to vitiate it. It stands otherwise upon the same footing with the general elections of the other States which have occurred since the 4th of March. There can be no sort of doubt that one of the said elections in Mississippi was constitutional and valid, and I presume no one will advance the absurdity that an unconstitutional and void election can vitiate a constitutional and valid election.

"I have now done with the argument of this matter. It is for the grave judges around me to say whether I have established any of my propositions. I have detained the House in this opening of the cause longer perhaps than its patience would warrant. But ample excuse, I trust, may be found in the magnitude of the principles involved and the inexperience of the humble individual to whom their illustration has been committed. I have performed my duty, it now devolves upon you to perform yours. In the performance of that duty, let me tell you, sir, no ordinary responsibility rests upon you. The eyes of the nation are directed to your action with an anxiety commensurate with the importance of the subject to be affected by your decision; that subject is no less than *the right of representation*, the Promethean spark which imparts life and soul to our whole political system,—without which all our institutions are but inanimate things, dull, cold, and senseless statues. In your situation *even good intentions* will not justify error. At your hands the American people will require a strict account of that Constitution of which you are appointed guardians and over whose most vital part a fatal stab is now impending. You cannot respond as did the first fratricide, '*Who made me the keeper of my brother Abel?*' To you is intrusted the keeping of the Constitution, see that you rob it not of its richest treasure.

"I advance here no personal claim; it is the claim of one of the sovereign States of this confederacy which I advocate,—her claim to the right of choosing her own Representatives according to her own constitutional laws. Will you deny her this right? Will you rend the brightest and the strongest link in the golden chain of the Union? Sir, if you persist in denying to Mississippi that right to which she is entitled in common with every other State, you inflict upon her a wound which no medicine can heal. If you are determined to impose upon her a representation not of her choice and against her will, go on and complete her degradation. *Send her a proconsul* for a governor, and make a taskmaster to rule over her. Let her no longer sit with you, a young and fair member of this proud sisterhood, but strip off the robes of equality and make of her a handmaid and a servant. Better, far better, had she never emerged from the chrysalis condition of a Territory to wear the gaudy honors and butterfly-wings of a State, if you can thus with your mere touch brush her brightest tints away.

"Sir, you may think it an easy and a trifling matter to deprive Mississippi of her elective franchise, for she is young, and may not, perchance, have the power to resist; but I am much mistaken in the character of her chivalrous citizens if you do not find that *she not only understands her rights*, but has both the will and the power to vindicate them. You may yet find to your sorrow that you have grasped a scorpion where you only thought to crush a worm. This House would as soon think of putting its head in a lion's mouth as to take the course which is threatened to-

wards the elder and more powerful States. And how happens it that Representatives of the States which have always been readiest in the assertion of their own rights should now be most zealous in trampling upon the rights of Mississippi? What has she done that she should be selected a victim? No State is or ever has been more ardently attached to the Union, and if she is placed beyond your pale it will be your fault, not her own. Sir, if you consummate this usurpation you degrade the State of Mississippi; and if she submits never again can she wear the lofty look of conscious independence. Burning shame will set its seal upon her brow, and when her proud sons travel in other lands they will blush at the history of her dishonor as it falls from the sneering lips of the stranger. Sir, place her not in that terrible and trying position in which her love for this glorious Union will be found at war with her own honor, and the paramount obligation which binds her to transmit to the next generation untarnished and undiminished her portion of that rich legacy of the Revolution which was bought with blood, and which should never be parted with for a price less than it cost.

“Is there a State in this Union that would part with it,—*that would submit to have her Representative chosen by this House* and forced upon her against her will? Come, what says the Bay State, time-honored Massachusetts? From the cradle in which young Liberty was first rocked—even from old Faneuil Hall—comes forth her answer, and before it dies away it is repeated from Bunker Hill: ‘It was for this very right of representation our fathers fought the battles of the Revolution, and ere we will surrender this dear-bought right those battles shall again become dread realities.’ Would Kentucky submit? Ask her, Mr. Speaker, and her *Mammoth* cavern will find a voice to thunder in your ears her stern response, ‘No! sooner than submit to such an outrage our soil shall be rebaptized with a new claim to the proud but melancholy title of the “*Dark and bloody ground.*”’ And what says Virginia, with her high device, her *Sic semper tyrannus!* the loftiest motto that ever blazed upon a warrior’s shield or a nation’s arms,—what says the mother of States and States’ rights doctrines,—she who has placed *instruction* as a guardian over *representation*,—what says she to the proposition that this House can make Representatives, and force them upon a State in violation of its choice and will? And where is South Carolina, the Harry Percy of the Union,—on which side of this great controversy does she couch her banner and draw her blade? I trust upon the side of her sister State,—upon the side, too, of the constitutional rights of all the States,—and let her bend the full strength of her good right arm to the blow when she strikes in so righteous a quarrel. Upon all the States do I most solemnly call for that justice to another which they would expect for themselves. Compel her not to drink its bitter ingredients, lest some day even-handed justice should ‘commend’ the poisoned chalice to your own lips.

“Rescind that resolution which presses like a foul incubus upon the

Constitution. You sit here twenty-five sovereign States in judgment of the most sacred right of a sister State,—that which is to a State what chastity is to a woman or honor to a man,—should you decide against her, you tear from her brow the richest jewel which sparkles there, and forever bow her head in shame and dishonor. But if your determination is taken, if the blow must fall, if the Constitution must bleed, I have but one request on her behalf to make: When you decide that *she cannot* choose her own representation, at the same moment blot from the star-spangled banner of this Union the bright *star* that glitters to name of *Mississippi*, but *leave* the stripe behind, a fit emblem of her degradation."

And so, with the clarion voice of Mississippi appealing to her sister States, echoing and vibrating through the hall and touching every heart, the great orator closed on the third hour of the third day. Intense was the excitement; never before in that hall had fallen such a speech from the lips of living man. The speaker, for the moment, had realized the motto of "*Le Grand Monarch*," "*L'état c'est moi!*" and it had thrilled every fibre of his great soul. Friends crowded around him and handkerchiefs waved.

There were no electric telegraphs in those days, but that speech rang from one end of the Union to the other. Grave Senators like Webster said that they had never before heard anything like it except from Prentiss himself, and that only he could equal it. It occupied in all nine hours,—three hours every day for three days.

It was always impossible to report Prentiss's speeches, and therefore the report of this one is not exactly the speech as delivered; for even the stenographers, those automata who can ordinarily unmoved jot down in their hieroglyphics the most glowing of sentences, here sat with suspended stencils, and finally, utterly enthused, threw them up, exclaiming, "*We cannot report a man who talks as though he were inspired!*"

I was myself a college-boy at that time. One of my fellow-students of the University of Virginia, John Strother, happened to be then in Washington City and heard the speech. On his return to college his first greeting to me was, "*Joe, you have the greatest man in the United States as your Representative; he is the greatest orator that ever lived!*"

As soon as the buzz of applause subsided, Mr. Gohlson, who was still laboring under the effects of recent illness, arose and made a brief reply, reiterating the grounds of his title to the seat as before advanced. Hon. Mr. Foster followed on the same side in an elaborate argument, and did not close at the hour of adjournment. He resumed again, and was followed by Mr. Pennybacker, of Virginia, who concluded on the 25th, and was followed by Maury, of Tennessee, in favor of the claimants.

On the 27th, Bronson, the author of the negative pregnant resolution, arose, and prefaced his speech by the following impartial and beautiful tribute to Prentiss:

"With those who have been taken captive by the *burning zeal, brilliant eloquence, and varied talents* of the gentleman of Mississippi it will, I am aware, be an herculean labor to convince them that his arguments are not sound or his positions tenable. I cheerfully pay this passing tribute to the talent and eloquence displayed by that gentleman, which are only equalled by the *gallant bearing and knightly manner* in which he has thrown the glove and done his devoirs in behalf of his lady-love, the State of Mississippi."

On the 29th, Legare, of South Carolina, joined in the opposition, followed by Evans and Cushing in favor of the claimants. Mason, of Virginia, took a middle ground, and was in favor of referring the matter back to the people for another election.

On the 31st of January, after the administration members had gotten through with their arguments, Prentiss rose and began his glorious rejoinder, which was concluded on the day following. He grouped all the arguments of the opposition and utterly demolished them, but of this splendid display not a vestige is left. Like the great second speech of Sheridan's in the case of the impeachment of Warren Hastings, it vibrated for a moment, but its very echo has now died out of the memory of those who heard it. Haynes followed on the same side.

This question having been thoroughly discussed, the previous question was called, and stood upon Bell's amendment to Bronson's resolution, containing two propositions,—first, to rescind the resolution of October seating Claiborne and Gohlson, and, second, to seat Prentiss and Word. Wise, fearing that the

double proposition might be lost, called for a division, in order to take a vote on the last part first. After a little parliamentary fencing, Bell withdrew his second branch, and thus 1 ft before the House the resolution proposing to rescind the October resolution that had seated Claiborne and Gohlson.

This Bell resolution was carried by a vote of one hundred and nineteen to one hundred and twelve. Let the parliamentarian here note that here was a case where a deliberate decision on an election case was reversed by a succeeding Congress. Thus two of the four aspirants, Messrs. Claiborne and Gohlson, were swept from the field. Still the battle was not won; it was the field of Wavre before that of Waterloo.

The friends of the claimants, however, thought the victory won, and had the vote been immediately taken it would have been; but just then Howard, of Maryland, rose and begged the House to pause. Thompson sprang to his feet and announced that the members elect were present and ready to be sworn in. The chair announced that no resolution had been passed to that effect. Howard then moved an amendment to the amendment of the second proposition of Bell, by inserting that S. S. Prentiss and T. J. Word are *not* entitled to their seats. This was supplemented, on the 1st of February, that if it should be passed the governor of Mississippi was to be notified of the fact.

This amendment of Howard's brought on a fierce debate. In the course of it, Pope, of Tennessee, moved to amend by inserting Yell, of Arkansas, whose case in some respects was similar to that of Prentiss and Word's, he having been re-elected under the November election in Arkansas, but the motion was ruled out of order. Underwood, of Kentucky, Robinson, Tillinghast, and Menefee spoke for the claimants, while Cilley, Mason, White, and others spoke against them, and in favor of referring the matter back.

On the 2d of February, Prentiss again addressed the House, vehemently protesting against a reference back to the people. Gohlson followed with a brief statement, in effect setting out that, relying upon the decision of Congress of October, he and his colleague had not been properly before the people, showing

circulars and statements as proofs thereof. Patten and Biddle spoke for the claimants and Legare against them. He was followed in reply by Menefee.

On the 3d of February, Bell opened his big gun for the claimants, and Rhett followed on the other side. Thus the war continued till the 5th of February. On that final day Glasscock sent to the clerk a communication received from Claiborne, who was still confined to his room. Objection was made to its being read, but this was overruled.

It in effect reiterated the former arguments in favor of the cause of himself and colleague, and substantiated it by an accompanying document, purporting to be from a Democratic meeting of the members of the Legislature and others at Jackson, on the 20th of January, endorsing and sustaining the course adopted by Claiborne and Gohlson. This was the last card thrown by these gentlemen, and proved to be, in part at least, the winning one in the great game.

Here followed again a proposed modification of the question, but at last the conclusion was reached that the vote be taken on Howard's amendment, which read as follows: "*Resolved*, That S. S. Prentiss and T. J. Word are not entitled to seats in this House as members of the Twenty-fifth Congress."

When the vote came to be taken great was the excitement. All the members who could possibly be had were there,—the sick and the well were all at their several posts. The suspense was painful, just such as awaits the verdict of a jury after the roll-call and the verdict is to be announced. Ayes and noes followed in almost alternate succession, even and odd, odd and even, down to the last syllable, and the vote, in equal balance, hung one hundred and seventeen to one hundred and seventeen. For a moment there was a pause, the destiny of the State hung upon one man's voice, "a still, small voice" it was, as it almost inarticulately uttered, "The Speaker votes aye." Thus the last two of the Mississippi Representatives were swept from the board.

Immediately, Wise, of Virginia, all on fire, sprang to his feet, and in a scathing rebuke denounced the "usurpation, and proclaimed that if he were the governor of Mississippi he would not obey the mandate, and that if he were one of the Representatives

of that State that he would present himself at the bar of the House and *demand* to be sworn in," etc.

Boon, of Indiana, replied against this arrogant self-confidence. "Sir, I never will consent for any man, *with or without a beard*, to dictate to me what is the true meaning of the Constitution." The italicized words evidently refer to the youthful appearance of the great orator.

Prentiss here rose and fired his retreating gun, protesting against the action of the House and replying to the remarks made by former gentlemen, and closed by announcing, "If my life be spared till the next session of Congress, and I see any prospect of having justice done to the people of Mississippi, *I shall again present myself and see if I cannot have this unconstitutional resolution rescinded, as the one was which was adopted in September last.*"

After this the formal political *burial*, so to speak, of the parties took place, or, in other words, the first branch of the resolution unseating Claiborne and Gohlson was agreed to by a formal vote of one hundred and twelve to one hundred and thirteen. The second branch of the resolution, denying the right of Prentiss and Word to their seats, was passed by a formal vote of one hundred and eighteen to one hundred and sixteen. The last act that passed of this painful ceremony was the notifying of the governor of Mississippi of the transaction. The curtain then dropped and the exciting political drama closed.

The reader, by bearing in mind the initial date of the contest—the 27th of December,—will perceive that it occupied the attention of the nation six weeks; more than fifty-five members were engaged in the debate, and the result was, to use the beautiful simile at the close of Prentiss's great speech, that "the star of Mississippi, if not *blotted* from the flag was at least *eclipsed*, and the stripe still loomed out of the darkness, an emblem of her degradation."

CHAPTER XI.

IN order to appreciate the full power of the great speech given in the last chapter, the reader must again be reminded of what I have already said with regard to Prentiss's difficulty in quoting from himself. The speech as we read it is a redraft given by him from memory days after its delivery ; it is merely, then, the skeleton of the mastodon put together, but enough of it remains for us to judge of its gigantic proportions. From the very beginning he held the House spell-bound for three hours, when it adjourned.

On the 18th of January the young orator once more resumed. The House and galleries became crowded, such an array of ladies had never before been seen there. Gracefully looping the links of his speech with that of the day before, he again began to speak. It must be noted how brief and clear were the propositions he advanced, and that from these he never departed ; however high he circled in his flights, he carried his propositions along with him ; his logic was festooned with flowers ; these, however, did not detract from, but rather enhanced its strength. Again, on this day for three hours, did he hold that vast auditory in the midst of murmurs of approbation. Grave Senators and foreign diplomats were alike enthralled. The House adjourned.

January 19 dawned, and still, like the stories of Queen Scheherezade in the "Arabian Nights," all was not told ; the young speaker again took the stand, and as he approached the climax, after another three hours, the excitement grew most intense. From the exordium the key-note will at once be seen ; like the view in the dissolving tableau, the *individual* disappeared and the State rose in his place. The State struggling for representation was blazoned on his banner all through the fight, and friend and foe alike fairly shouted with exultation as,

at his conclusion, he thundered his invocation to the sister States.

It is said that Webster, who was seated near, as Prentiss's last words thrilled the hall, in enthusiastic admiration, exclaimed, "That can't be beat!"

Taking up the thread from Wise's letter where we left it, we find the following eulogium :

"The day at length arrived: Prentiss's turn came. Ho threw himself into the arena at a single bound, but not in the least like a harlequin. He stepped no stranger on the boards of high debate: 'he raised the eye to heaven, and trod with giant steps.' Never did I see the *gaudia certamenis* so beam and shine and glow from mortal face. I never shall forget the feelings he inspired and the triumph he won. But there's the speech, or at least a fragment of it, surviving him; there's the figure of the star and the stripe; go read it,—read it now, that his eye is dim and his muscles cease to move the action to the word,—then imagine what it was as his tongue spoke it, his eye looked it, and his hand gesticulated its thoughts."

Passing on from this, one of the greatest speeches ever delivered in that hall, we shall trace his subsequent career in the grave category by which he was now environed. Again the title of Bulwer's novel comes up, "What will He do with It?"

A pleasing episode occurred before he left Washington City, one rarely accorded to so young a man: the distinguished men of his party, whose names still glitter in our history as stars of the first magnitude, tendered him and his colleague a complimentary dinner on the eve of their departure. Let Wise describe the scene, as taken from his reminiscences in the "Memoirs" of S. S. Prentiss by his brother :

"It was as *elite* an assembly as I ever saw gathered at the metropolis. The Hon. Hugh L. White, the Cato of the country, presided. And Clay was there, and Webster, and their peers from both houses of Congress, and the most select visitors of the populace. Prentiss that night was reserved, both in sentiment and style. He assumed that he was yet to win his spurs, and would not dare or deign to talk of deeds until he had returned from the crusade of the canvass, a knight of the holy war for popular and States' rights against the worse than Turk of a party.

"But that night's speeches I shall never forget, for it sealed my intimacy with him. Many members spoke when toasted, and many toasted to draw out speeches. Clay utterly failed to charm the assembly. His wings seemed to be wet, and they flapped and floundered in the dust. Webster

rose and gaped and yawned a bad apology for not trying to entertain us. After a while he was called on again, and he responded to the call by punning on the names of Senators from Mississippi. That State, he said, had sent a *Walker*, then a *Trotter*, and next she was like to go off in a *galloping* consumption. He sipped his toast and down he sat, to the disappointment of everybody. The scene was dull, it began to grow late, and Judge White called me to the chair and retired. Two- or threescore guests remained till past twelve o'clock, and about one o'clock some one, I think General Waddy Thompson, of South Carolina, rose and said the speeches of the occasion had been execrable, that no one had tried to touch a chord of feeling or to draw a cork even of wit. He upbraided Webster especially with failing to attempt to speak with effect, and, as a Southern man, appealed to him, a Northern man, to touch the theme of the Union. Clapping of hands commenced,—‘Webster!’ ‘Webster!’ ‘The Union!’ ‘Webster!’ ‘The Union!’

“He rose and commenced in strains of solemn earnestness. As he went on he warmed, he grew taller, his large ox eyes expanded, his complexion grew darker, his heavy arm and hand worked like a tilt-hammer of Vulcan beating out thoughts for the gods. He rose to the empyrean and yet seemed low down to us, because his thoughts were so large that, though high enough, if small, to be out of sight, they compassed us all about with their shadows, and the very clouds of them were luminous with aurora-like light. He brought forty men to their feet, their hands resting on the dining-table, their eyes gazing at him, their lips parted as if they were panting for breath. By and by he came to point the speech with its moral and exclaimed, ‘And you, Southern brethren, shall *my* children be aliens to your children, and shall your children be aliens to my children?’

“This he said so touchingly, so appealingly to the heart, so generously tendering love and confidence, that, heavens, what a burst of feeling! The great tears rolled down many a manly cheek, and ———, of Georgia, exclaimed, ‘There, now, didn’t I know it! But my people wouldn’t believe this. I’ll tell them as soon as I go home.’ In the midst of the excitement, ———, of Kentucky, in a perfect frenzy, seized an empty champagne-bottle and, crying out, ‘Reform! Revolution! Liberty or death!’ threw it at Webster’s head, which he would doubtless have hit but for my jarring his arm by catching at it as he threw. What a magnificent structure he would have destroyed had he hit it!

“Thus ended the last act of that night, and he (Prentiss) went to my room and lodged with me until morning. He then, for the first time, gave me his private history. I perceived that his feelings were morbid respecting his lameness. Indeed, he told me that he had gone out alone at the midnight hour and bewailed in despair the marring of his fair proportions. I *begged* him to get married, assuring him that he was wholly mistaken in virtuous, intelligent woman if he imagined that his lameness forbade the bans of matrimony to him. He was much soothed by this assurance,

and *promised to seek more the humanizing society of woman* and to try to love. He did so, and I always thought he was drawn to me by this persuasion and by my always refusing to join him in his conviviality."

The whole of those reminiscences of Wise, as given in the "Memoirs," is one of its brightest gems, and really sparkles with beauty and pathos from the beginning to the close.

In genius, in intellectual power, in fiery eloquence, in lofty scorn of all that was low and mean, in unflinching valor, in unswerving integrity, and in tender-heartedness, Prentiss and Wise were not unlike, and hence the sympathy between them. There is a secret intellectual magnetism which draws kindred spirits towards each other, and so it was in this case, "spirit responded to spirit at first sight, without a word."

Prentiss was of course unutterably *indignant* at the way in which the State was treated, but, like all men of genuine wit, whose spirits alternate between the rise of exuberance and the ebb of despondency, he had a way of conquering defeat by *draping* it with raillery. He wrote in this way to his sister, and showed by an arithmetical calculation that he had at least gotten his "quota of *time* in that Congress." He could not help but express great disgust at politics, and but for his peculiar position he said he was disposed to resign and quit the business forever; but, like the animal harnessed to the tread-mill, he was bound to keep treading on.

He left Washington early in March, and *en route* home was invited to public receptions. His great effort, as we have before expressed it, had struck the auditory nerve of the nation, which vibrated from Maine to Mississippi, and throughout all the wide borders of the Union. His reply to the invitations, in brief, was that as yet he was the *Disinherited Knight*, and therefore could not enter the lists.

He reached home on the 13th of March, amid the booming of cannon that "bayed their deep-mouthed welcome," more as though he were a returning conqueror than a defeated champion. His friends were enthusiastic in their reception, and overwhelmed him with their congratulations on his magnificent defence of their State's rights. There was a counselling as to what was to be done. He was extremely averse to another can-

vass of the State, but it was evident to him that, unless he did this, the cause would be lost. Thus, being in, he was forced by the irresistible logic of events to go forward. He was tendered a dinner by his friends and neighbors, which was presided over by Judge Sharkey.

The governor issued his proclamation for the, so to speak, *third* election, to be held on the fourth Monday of April; there was, therefore, but a short time for action on either side. Mr. Gohlson declined to run, and General James Davis took his place, with Claiborne, on the Democratic ticket.

Prentiss opened this third campaign by a brief address to his constituents, plainly detailing the facts. The following epitome will show the points :

"That in November he was elected; received his credentials from the governor; presented them and demanded to be sworn in; the Speaker refused; the seats were occupied by Claiborne and Gohlson, who were in only for special term, but had been declared to be entitled to the full term. After a severe struggle they were ousted, but the November election was also declared void, and your Representatives rejected, and the State disfranchised at this most important epoch. Upon the question of the November election the vote stood a tie, and the Speaker had the glorious infamy of deciding it against you. Your *right of election* has been repudiated, but you will not submit. Had you chosen Representatives of the other political party it would not have resulted thus. The true contest now is whether you or the House of Representatives shall designate who shall serve you in that body. He appeals to high-minded of all political parties to assert their right of election. The usurpers have been driven from the Capitol by your Representatives, but they have been denied admittance. I have obeyed your high behest. It now devolves upon you to assert your rights."

This was the opening of the campaign, and, to follow it up, Prentiss once more appeared on the hustings at Vicksburg, and then at Natchez. Here the court-house was not large enough to hold the audience. A platform was erected in the court-yard. About fifty ladies of the *elite* of the county, for whom seats were prepared, mingled in the throng to hear him.

The following is a rude outline of his great two-hours' speech at Natchez, taken down by a young friend and recorded in the "Memoirs":

"Fellow-citizens:—A great king of France once remarked, after a defeat

in battle, 'All is lost save honor.' Such may well be the exclamation of the people of Mississippi, '*All is lost save honor.*'

"Not many months since, you are all aware, an election took place in this State for Representatives in Congress of the United States, and I, as one of the candidates for that high mission, addressed you on the great political questions agitating the country. I now appear before you in another view and on other grounds. I do not ask the support of any of my fellow-citizens of this State either on account of their personal friendship for me, or because they belong to the same political party with whose views I have generally coincided. I come before you as the advocate of a high constitutional principle,—a principle before which all the little political quarrels of the day sink into utter insignificance,—the great principle of representation.

"I believe I am one of the Representatives to Congress from Mississippi, —a Representative not merely of my political friends, but of every man, woman, and child in the State, for the number who did not vote for me at the polls were after my election equally bound with the *larger* number who *did* vote for me to support the laws and constitution of the State and to defend their right of representation.

"However some of you may differ from me on some of the questions, I trust, fellow-citizens, you will give me credit for candor in my political course. I am anxious that none should be in error regarding my view,—I wish to leave no room for misapprehension or misrepresentation, and to such an extent do I carry this desire that I would not receive a single vote which I believe to be given from a mistaken idea of my principles.

"This is neither the time nor the place for discussing party questions, nor am I before you for that purpose. But, as it has been said that I am anxious to assume new ground in view of the April election, I will refer you to the unreserved expression of my opinions as I addressed them to you before the November election, and remark that they are unchanged, unmitigated in every respect. If any difference exists, it is that I am still firmer in my devotion to them. I return to you a messenger who has not been able to execute his trust. If you had sent in November as Representatives to Congress two good '*Democrats*,' as they are called, not the slightest breath from that House would have impeded their admission; but you *dared* to send men of your independent choice without consulting the presiding powers at the Capitol, and on that account are defrauded of the treasure of all others most dear to an American citizen. This is the real cause why my colleague and myself failed in our errand. The proud position which we held as defenders of your constitutional rights impelled us to the performance of our task with *unbounded zeal*; if there was any deficiency in maintaining those rights, *want of ability*, not of perseverance, was the cause. I, for my part, have done all I could do to urge the sanctity of your claims. It is for you now to act, and send me to act for you. The contest is *yours*, not *mine*. I have no personal interest

in it. The preservation of your rights inviolate and the support of your constitution and laws give me a stand *elevated far above any private selfish motive*. For them I would shed the last drop of my blood. I only regret that when the attempt was made to fasten dishonor on your name the Senators who represented you in the other wing of the Capitol did not at once show their indignation at the act and return home also.

"But it was said at Washington that if a new election were to be held Messrs. Gohlson and Claiborne would receive a majority of five thousand votes. This I found to be the opinion which one of your Senators entertained and had circulated. It may be his opinion, but this is surely a curious way to decide a great constitutional question; and yet, strange as it may appear, it was not without its influence. Rely upon it, *chains have been forged* for you at Washington City, and it is expected that you will put them on. Mississippi is still free, but she is called on to do the work of her own degradation. Will her proud spirit brook it?

"I deny that the coming election is valid. It cannot be under your constitution; and although a sense of honor forbids me to resign, I solemnly declare to you that *if I am sent back I will consent to be sworn in only under the November certificate*. I will not take my seat under any other election than that which is held in accordance with your constitution and laws. Your sacred rights can be preserved inviolate under no other election than that of November. If it be not your wish to maintain the sanctity of those rights and give renewed evidence of the high importance with which you deem them invested, then will I assuredly retire. *Against the expressed will of the majority never will I urge my claims*. If there be any among you willing tamely to submit to this humiliating deprivation of your *elective franchise*, or who think my colleague and myself were not constitutionally elected in November, I do not ask their votes.

"I reiterate, then, let every one that believes that Messrs. Claiborne and Gohlson were constitutionally elected to the Twenty-fifth Congress in July last sustain them now; but if you, on the contrary, believe that in November last my colleague and myself were constitutionally elected the Representatives of the State,—the whole State, and not of a party,—you cannot now consistently refrain from sustaining us. If the people once elect an officer, all party considerations should be instantly lost sight of, and it becomes the duty of every citizen to acknowledge and defend him as such. It matters not whether that officer be an administration man, Whig, national bank, State bank, or sub-treasury advocate, *all* are alike bound to maintain his rights. Though our State governor be hostile to our political views, yet, should some foreign power attempt to wrest from him those rights which pertain to his office, how soon would all parties rally to the rescue! I did not vote for him, but it is sufficient for me to know that the popular voice has made him governor.

"In this contest, I repeat it, I have no personal interest more than any

other citizen. Did I not believe that the people themselves would sustain me in the high and arduous contest for their rights and privileges, in which a sense of duty to them and their honor alone prompts me to continue, I would at once have resigned; for, so far as I have hitherto trodden the political path, I assure you experience has left me no desire to continue therein. My green ambition is fully satisfied; a political life has no allurements for me. I always understood that constitutions were intended to guard against majorities and restrain lawless acts, as embankments and levees are erected to prevent overflows of rising streams. Constitutional principles can I alone look to. If the people do not think I was constitutionally elected in November, well, so let it be; but let us not submit to have our Constitution trampled under foot. This is the first instance in our history of *legislative tyranny*, and if we bow our knees to it we only pave the way for a second violation.

"I fear, fellow-citizens, the fundamental principles of our Constitution are fast passing away. That Constitution is like the splendid edifices of some noble city, which looks as if it would bid defiance to the ravages of time; but there are catacombs beneath it which are gradually undermining its strength and may soon engulf it in their caverns. Do we not every day see men lured away from some great principle to support a little party vote? Will you submit to have your representation played shuttlecock with, and bow to the errors of that arbitrary monarch, the House of Representatives?

"The grand principles of our Constitution appear to us exalted beyond all contingencies, all innovations; but in this we do not repose on a wholesome security. The first instance we are called upon to assert the inviolability of these principles will prove to us the extent of secret plotting which has been working their decay. We shall find ourselves in the situation of a well-trained band of soldiers, who, supposing themselves beyond the reach of danger, are attacked by midnight marauders and are thrown into such confusion that they lose the benefit of their discipline and fall a ready prey to destruction.

"The sacred right of representation is the most valuable we possess. If robbed of it nothing can compensate us. You may gather all the principles which enter into the constitution of our government, make a clustering wreath of them, and what would the whole be worth compared to the countless blessings of representation? Reflect well on your position. No government has the *right to surrender vital principles*, and in this respect individuals and governments resemble each other. These principles are ours in trust, not to exchange or barter at will. If they were intended merely for the present generation, then indeed we might surrender them with less dishonor; but they are sacred rights, vested in as many generations as we can imagine, and which we ought not to surrender, even at the point of the bayonet. The framers of the great Constitution looked down the *stream of time* and saw a thousand generations sitting upon its banks,

all *waiting* for the rich *legacy to be wafted to them*, to use but not to abuse it and then waft it on *to others*.

"When looking into futurity, fellow-citizens, I contemplate the rising and rapidly developing glories of Mississippi, and behold the proud destiny opening before her. She seems like a rich bride reclining on the arms of the majestic Father of Waters, and among her sister States the most beautiful of them all. But her honor is at stake. If a young man commit some dishonorable action and tarnish his fair fame, no future years of amendment, however well spent, can efface the stain. As time rolls onward it may become dimmer and dimmer, but the finger of envy or the tongue of scandal will never permit it to be lost in oblivion. This State is now in the position of that young man. Let her look calmly on and see her dearest rights torn from her without a murmur or a blow struck for her deliverance,—let her slavishly submit to her oppressor's mandate, and an indelible stain will remain upon her to the latest generation. Let not party spirit recklessly affix this stigma upon her escutcheon, but let us all, in the united and invincible strength of freemen, rally to the support of the Constitution.

"I deprecate all excitement not belonging to the true question before the people. But I regret to see that one of the late members has not the same feelings. Having given up all other subjects, he has taken to abolitionism, and seems to wish this great constitutional question decided as abolition or no abolition. It is true he does not charge me or any other individual with abolition doctrines, but what is the fair inference to be drawn from this parade of his anti-abolition principles in a question where there is not a shadow of excuse for introducing them? I deprecate with the utmost regret this attempt to throw fire-brands around us.

"And now, in conclusion, I thank the fair portion of my hearers for the attention they have paid to the discussion of the important principles brought forward in this address. Upon the maintenance of these principles, so dearly prized by every lover of our civil institutions, *their* happiness and interest depend. Yes, I appeal to them also, and am confident they would see those most dear to them—their husbands, sons, brothers, and their sweethearts—exposed to all the hazards of war rather than that, through inertness or want of a spirit of patriotism, they should shrink from a fearless and manful support of the Constitution."

The above can give but a faint idea of the speech itself. Mr. Black, the editor of the *Natchez Courier*, says of it, "The high expectations of all were more than fully realized. For nearly two hours did the orator excite the fixed attention of his auditory. Description is inadequate to give a proper idea of his powers and of the sway he exercises over the minds of his hearers." I have often heard others who were among the audience speak in raptures about the speech. Whigs and Dem-

ocrats were alike enthused. The speech embodied the main warp of the theme, into which he threw the woof of his splendid diction in this second campaign.

When Prentiss returned home to Vicksburg he wrote to his sister, telling, in his modest way, how he had been received at his first Mississippi home, and how he had been honored by the presence of the ladies.

After his speech in Natchez he set out on a second pilgrimage for the eastern and northern counties. This must have been a wearisome canvass, for it is always irksome to repeat a twice-told tale, but Prentiss was nerved in the contest by the reflection that a great principle was at stake. He had won his election fairly and honestly, after a hard contest. This had been wrested from him by party tyranny, therefore now it was the State and not he who was the party most deeply interested.

A tradition verbally handed down in Hinds County during the last forty years was, a few months since, crystallized in the columns of the Hinds County *Gazette*, and will give some idea of the varieties of the second crusade. I shall condense and give only the substance.

Prentiss had made his opening speech at Raymond to an immense meeting. His brilliant thoughts, irresistible appeals, powerful reasoning, and fund of humor carried everything by storm. He captured the whole meeting, and from that day until the Whig party went down in gloom and dismay before the secession billows of 1861, Hinds was immovably a Whig county.

After his splendid victory in Raymond the people, regarding him more as a creature sent from above than a mortal man, were anxious to take him everywhere, that every one should hear his "eloquent and burning words." After telling how all were Democrats when they came to hear him and Whigs when they left, they arranged that two weeks from the following Saturday he should penetrate to "Sutchelou's Mills" and speak there. When the appointed time arrived and he was preparing at Vicksburg for his drive of twenty-five miles to "Sutchelou's," he was told that it would be perfectly useless for him to go, for to a unit they were all Democrats in that neighborhood. But

THE LIFE AND TIMES OF

after his experience at Raymond, had taken a fancy to
d at sunrise on the appointed Saturday, with a colored
man as a guide, he set out for the Mills.

Although the most minute directions had been given to him, the thoughtful Sutchelous knew their place was difficult to find, therefore about forty or fifty of them went on horseback to the forks of the road—a distance of eight miles—to meet him, and in triumph escorted him to the Mills. After leaving the main road the whole cavalcade would often alight and carry Prentiss, driver, buggy, and all over the almost impassable places in the paths through the forest.

At the mill Prentiss found the whole people of the surrounding neighborhood, men, women, and children, white and colored, with all their horses, mules, and dogs. The "Sutchelous," the "Pickrams," the "Vandougals," all were there, each of these three families having stopped their mill that day for the purpose of going to see a man who was only second to General Jackson. Every man, woman, and child was presented to Prentiss, who had a kindly greeting and gracious word for each. He won all hearts and captivated everybody before he ascended the rough little platform which had been erected for him.

It was a grand day and a triumphant occasion for the "Sutchelou Mills." These Sutchelous were a plain, unlettered, hard-fisted, patriotic people, cut off from the rest of the world, living within themselves and for themselves, the world seeming to care nothing for them and they caring little for the world beyond the Mills. But they felt that a great man was among them, and they determined to make the most of the occasion.

After partaking of a hearty dinner, which was spread, picnic fashion, upon the ground, Prentiss took the stand and for a few moments surveyed the multitude in silence, then in that manner and voice peculiar to himself, announced, "I am sent out to hunt the lost sheep of the house of Israel." This simple sentence immediately drew to him every heart and enlisted all their feeling and sympathy.

He was always posted as to the people and locality in which he happened to be. He had found out all about the Sutchelous, Pickrams, and Vandougals, and all the people who lived there.

The virgin forest supplied logs sufficient to run the three wet-weather mills, which could only run during high water.

During the speech a pretentious and inquisitive fellow, who was a sawyer in one of the three mills, wishing to show himself to the crowd, as also to defend his favorite Democratic theories, commenced putting questions to Prentiss, which this latter happily answered to the confusion of the sawyer. At length old man Sutchelou, a type of the old style of men of North Carolina, "near the Virginia line," rose and went to the interrupter, and remarked in substance,—

"I say, my sawyer, I think it onproper in sech as you to be continually a interruptin' ov so great a man as S. S. Prentiss, and ef you is got onything to say agin him jest you wait till he's done, then you can have your say, ef you chooses."

"Let me thank you, Mr. Sutchelou, for your kindness," said Prentiss, pausing in his speech; "I beg you not to interrupt the gentleman. Just let him ask as many questions as he pleases. *I've got plenty of water to run two saws.*"

"Hurrah for Prentiss!" shouted the crowd. "I golly, I reckon he's been a sawyer hisself, and we go for him sure."

It is needless to say that the sawyer didn't try to run the saw on *him* any more; it was lost in the roar of applause.

They kept Prentiss all night, and escorted him the next day out to the homeward road. On the day of election the vote of the Sutchelou Mills was solid for Prentiss and Word. So closes the account from the *Raymond Gazette*. As long as the Whig party existed, from this time the west corner of Hinds was Whig to the backbone, and it may be added the *nebulae* of the defunct party still hovers there, even to this day.

Emerging from the obscure saw-mill corner, Prentiss continued the crusade. Everywhere he was hailed with acclamations by his admirers; men, women, and children flocked to hear him. At length he again reached the head centre of the Chickasaws, and here occurred one of those *contretemps* that never before happened to a politician. He was addressing a large audience in the lower edge of Marshall County. He was in splendid condition, and was holding the throng, as usual, spell-bound. Suddenly he noticed that, in spite of all his efforts, the

crowd began to disperse by twos and threes. He redoubled his efforts, but in vain; the crowd continued to melt away like a snow-ball in the sunshine. The cause was soon apparent: the caravan of a menagerie was slowly winding its way over the hill, headed by an elephant with all his scarlet trappings, and upon his back was a "howdah" occupied by the musicians. Prentiss saw that for once he was doomed, so, gracefully bowing to the audience, he said in substance, "Well, ladies and gentlemen, I am beaten, but I have the consolation of knowing that it is not by my competitors. I will not knock under to any *two-legged* beast, but I yield to the elephant." This, of course, caused a great laugh, and the meeting broke up in a good humor.

The interruption was not to end on this first day. The manager of the menagerie saw that he could utilize the crowd that was to meet Prentiss; therefore day after day he made it a point to hit the political appointments. The champions of Prentiss noted this, and at last grew indignant at the interruptions. One of his friends vented his wrath in no measured terms, and denounced the proceeding as a trick of the enemy.

"It's no use to get mad, Andy," said Prentiss, jocularly; "he's not worth noticing. He's no gentleman; don't you see," pointing to the elephant, "he carries his own trunk?"

Finally the annoyance became too serious to be longer endured, and a sort of compromise was made between the high contracting parties to *divide time*, etc.,—that is, the show was to occupy part of the day, and during the rest of it Prentiss was to have the pavilion for his hall and one of the cages for his rostrum. The agreement was carried out at Holly Springs.

Before the curtain had risen on the menagerie performance Prentiss took the stand on the hyena's cage, the top of which was ventilated by holes. The scene, the surroundings, the occasion, everything conspired to give him a chance to display the wonderful versatility of his talents. He had to elevate that motley crowd to the great thought that their rights as Mississippians had been grossly violated and trampled upon, and it was not long before his stirring appeal brought thunders of applause. Its first burst stirred up the menagerie. The elephant threw up

his trunk and blew his clarion nose; tigers and bears responded with their guttural growls. On went Prentiss, and every now and then he would thrust his cane through the holes of his rostrum. This would bring a yell from the hyena. Above the din he once raised his voice to the highest pitch, and cried, "Listen, fellow-citizens! Hark, how the very beasts of the forest utter their condemnation of this great Loco-foco outrage upon your dearest and most cherished rights!"

Meanwhile the lion, who had been quietly airing himself, walking to and fro in his prison, caught the infection, and, shaking his mane, threw his terrible roar into the chaos of sound. Here ladies shrieked, and even the men for a moment were appalled by the uproar. Prentiss turned to the noble beast, and continued: "We bid you welcome, sir, to our holy alliance, and right gladly hail the applause of such a representative of the brute creation." In a moment he changed his tone and manner, and began in a playful strain to describe a political convention of his opponents: "There was the wily fox, the shrewdest trickster of his day; there sat the jackal, the office-seeker; there the hyena, the destroyer of men's good names. This motley crew was presided over by his illustrious highness the baboon."

The resemblance between this last beast and one of the noted wire-workers of the day was so striking that the bystanders recognized the hit, and burst into roars of laughter. This seemed to rouse the baboon from his quiet contemplation, and he gave a grin. Prentiss paused a moment, and then went on by way of apostrophe: "Ha, my fine fellow, I see I have unintentionally wounded your feelings by the comparison, and I humbly beg your pardon."

Thus, sweeping from the most fearful denunciations to the most sarcastic pleasantries, Prentiss swayed that vast multitude, which alternately shouted and laughed. Beast answered beast. The *bipeds* of Diogenes and the *quadrupeds* of Asia, Africa, North and South America mingled in the uproarious din. And so it turned out that what would have been a serious *contretemps* to any other man, by his masterly strokes was worked up to his advantage. *The applause of the beasts got him at least a hundred votes.*

This was, most probably, the first and only time where the *canvas of a menagerie* was blended into a political *canvass*, and we can feel sure that no one but Prentiss could have been "equal to the emergency."

The action of Congress, while it had welded the Whigs in a more solid mass, had hewn a great fragment from the hitherto solid block of the Democracy. Even the whilom political antagonist and personal enemy of Prentiss, General Foote, presided over a meeting at Jackson, which denounced the course of Claiborne and Gohlson and pledged its support to Prentiss and Word. Thus it was all over the State; as a sample thereof we refer to Newton County, the vote of which for Prentiss, in July, was one; in November, forty-six; in April, sixty-five; Chickasaw, July, sixteen; November, twenty-four; April, forty-five. Once or twice General Davis essayed to meet Prentiss upon the hustings; but it was of no avail, the ebb-tide had set in against Claiborne and Gohlson and swept them away before its current.

In the mean time Claiborne was not idle, "his pen was the tongue of a ready writer," and he flung his political addresses of wonderful power all over the country. He was too ill to make a personal canvass, and no one could say what would have been the effect of his personal magnetism; as it is, it is wonderful how he held so many of the old Democrats in line as he did; but, in spite of his old slogan, Prentiss carried with him some of the Democrats of the strictest sect in this region of Adams and Jefferson Counties. A story has already been told in the "Memoirs" illustrative of the animus of this wing of the party: "On a certain occasion when Prentiss had concluded one of his masterly strokes, an old-line Democrat stepped to the front, exclaiming, 'They may call me a "turncoat" if they choose, but I'll just *back out* of my coat;' and, suiting the action to the word, he ripped his coat up from the *caudal fork* to the collar inclusive, then cried, 'I go for Prentiss now!'"

Prentiss gave a right diagnosis of the case when he wrote home, at the outset, that if he did not canvass he would probably be beaten. The result showed that he was correct, for, notwithstanding his herculean struggle, he was elected by a majority of less than two thousand, whereas, as he thought, it should have

been from ten to fifteen thousand. Viewing the result from his stand-point, although he was *gratified*, he was not *satisfied*, as he told Wise, by this meagre majority.

On the 1st of May, however, he returned home to Vicksburg plumed with honors, and writes to his sister assuring her that he will be elected—after his electioneering tour of five weeks—in spite of the desperate efforts of Van Buren's party, and that he would have been beaten but for this tour, which had been laborious but otherwise pleasant; that he had been received with great enthusiasm by his political friends, and that his health was excellent. He closes by asserting that he is "heartily tired of the dear people, and shall leave them hereafter to manage their own affairs," and announces his intention to start for Washington in ten days or two weeks.

Just at this time an event occurred which excited Prentiss's indignation. The city authorities of Vicksburg, unjustifiably as he thought, tore down a shed which had been erected by the bank on a piece of the land that he had sold to it. A suit was brought, I presume, to recover damages. In the case Prentiss delivered a speech on the eve of his departure for Congress. His friend, in the "Memoirs," characterizes it as the most brilliant speech of his life. Holt was on the other side. "Holt's effort," says the writer, "was the boom of a single gun, while that of Prentiss was one continued roar of artillery from its opening to its close."

On the day following Prentiss left for Washington, and reached there the last part of May. On the 30th the following proceedings took place. A Mr. Boon, of Indiana (that same Boon who, it will be remembered, had sarcastically alluded to "men with or without beards" in the closing debate on the contested election), had the floor, when Mr. *Garland* (a name appropriate just then), of Louisiana, rose to a privileged question. "I have to announce," said he, "to the House that the *agreeable duty* has been confided to me, and no doubt it will be extremely *agreeable* to a large portion of the members of this House, that the people of Mississippi have reaffirmed the election made by them in November last in sending S. S. Prentiss and T. J. Word as their Representatives."

The two gentlemen stepped forward. But just as the Speaker was about to administer the oath, Mr. Prentiss said, "Before taking the oath I wish to state my objections. Though elected by the people of the State of Mississippi just taken place, I myself do not believe that election to be constitutional and valid. In taking the oath, sir, I shall take it under the previous election of November last, and not under the recent one, because, in our consciences, we do not believe the latter to be constitutional and valid."

There was a pause and a hush for a moment. The Speaker then said, "It has been stated to the House by the gentleman of Louisiana that the gentlemen of Mississippi have been elected and were present, and were ready to be qualified as members of this House. I shall therefore administer the oath."

The solemn ceremony was then performed, and once more the star of Mississippi, which had been for three months in a state of eclipse, burst forth in brighter effulgence from the brilliant character of her Representatives and the noble act of her people.

True to his pledge to vindicate the rights of the State he represented, Prentiss, on the 11th of June, introduced a resolution of seven propositions, asserting in substance, first, that the time, place, and manner of holding elections was given to the States. That neither Congress nor State executive can supersede this. That this House has no power to amend it. That no election or action of the House can deprive the people of the State of the right. That the Congressional right extends only to the questions of election qualification and return. That the election of November was valid. That the resolution of the 5th of February, denying to himself and colleague their seats, was a dangerous attack upon the elective franchise, in derogation of the rights of Mississippi, in violation of the Constitution of the United States, and a mischievous example to future times. And that therefore the resolution of the 5th of February be rescinded. But the adjournment of Congress on the 9th of July following prevented their being disposed of at that session.

He brought them up again on the last day of the year 1838, and again on the 12th of January, 1839, at the third session of the Twenty-fifth Congress. But inasmuch as the substance of

the resolutions had been accepted or achieved by his *actual occupancy* of the seat, no further action was taken upon them so far as I can trace.

During the fragment of the second session he made a great speech on the sub-treasury. Of this no note is left. I heard him speak to my brother of this speech just after its delivery, and from the modest manner in which he alluded to it no one would have supposed that it had fully sustained, as it did, his reputation as a debater.

On the 6th of July there was under discussion the bill in relation to the small notes of the bank, forbidding the reception for public dues of notes of twenty dollars denomination, and those of any bank that issued notes of less than five dollars. Mr. Prentiss spoke; he said, "If, sir, this was the last day of the political existence of this government, let alone the last day of this nation, I would debate this bill." He then launched into a caustic criticism of its features. He harpooned it as the tail of the dying sub-treasury bill.

Some points of order were raised, and it was evident that the House wanted to cut short the discussion. In the midst Mr. Adams playfully raised a point of order. The chair required it to be reduced to writing. This was done, as follows: "That the gentleman could not proceed after it had been determined upon by a majority of this House, without debate or discussion, to ram this highly proper bill down their throats."

The pith of the legislative joke was at once seen and the point was ruled out of order. Prentiss was consequently permitted to continue his remarks to the close. Congress adjourned on the 9th of July.

From the above brief synopsis it will be seen that Prentiss was not an idle member, but entered into the discussion of all the great questions that concerned the interests of the people.

Most gladly would he, no doubt, have taken rest after his Congressional labors of this session were over, but it is the fate of men of genius to *consume* themselves in giving *light* to others. He, Menefee, and Wise were invited to address the people at Havre de Grace, Maryland. The trio appeared at the appointed time. It was a great gathering. Wise says of himself that he

THE LIFE AND TIMES OF

ed and sick and did not do himself justice; his reporters, however, disagree with him on that point. Menefee followed in a brilliant speech, and when he was through the cry was raised for "Prentiss!" "Prentiss!" as was usual when he was present. He, too, must have been weary, but the spirit within him overmastered the frailty of the body. The opening sentence of that great effort was electrical:

"Fellow-citizens:—By the 'Father of Waters,' at New Orleans, I have said 'Fellow-citizens.' On the banks of the beautiful Ohio I have said 'Fellow-citizens.' Here I say 'Fellow-citizens.' And a thousand miles beyond this north, thanks be to God, I can still say 'Fellow-citizens.'"

"Thus," says Wise, "in one single sentence he saluted his audience, drew every man, woman, and child near to him, made himself dear to them, and by a word covered the continent. By a line mapped the United States from the gulf to the lakes; by a greeting, warm from the heart, beaming from the countenance, depicted the whole country, its progress, development, grandeur, glory, and union. Every hat was whirled in the air, every handkerchief was waving, the welkin rung with hurrahs; the multitude heaved up to the stand, stood on tiptoe, and shouted cheer after cheer, as if wild with joy and mad with excitement. Never for one moment did he relax his grasp upon that mass of humanity. He rose higher and higher, went up and up, and on and on,—and on far, far away, like the flight of the carrier-pigeon. It was the music of sweet sounds, and now it was the war of the elements. Figures bubbled up and poured themselves forth like springs in a gushing fountain, which murmur and leap awhile amid mountain rocks, then run smooth and clear through green and flowery valleys, until at length, swollen into mighty streams, they roll onward to the ocean. The human reeds bowed or lifted their heads and basked in the sunshine. I was not sick when he was done. His clothes were dripping through with perspiration. We sat together in the moonlight the night of that day on the deck of the ferry-boat, and he talked philosophy and poetry until morning."

Such is the beautiful chaplet placed upon the brow of the great orator of the age by the hand of a brother orator, who was almost if not quite his equal.

From Havre de Grace, Prentiss journeyed to the State of his birth, and was once more welcomed by his family and his friends. Here he sought rest from his labors. He had just formed a party to go on a mountain tour, when on the eve of departure he received an invitation to attend a public dinner to be given in Boston to Daniel Webster. He longed to "flee to

the mountains," but the urgent persuasions of friends finally induced him to accept the invitation.

The galaxy of talent assembled in old Faneuil Hall on that occasion was brilliant. Webster, ex-Governor Ellsworth, Abbott Lawrence, ex-Governor Lincoln, Peleg Sprague, Edward Everett, and other distinguished men were there. Emblazoned on the gallery was the closing sentence of Webster's last great speech on the sub-treasury,—“I am where I have ever been and ever mean to be. Here, standing on the platform of the Constitution,—a platform broad enough and firm enough to uphold every interest of the whole country,—I shall still be found.”

Everett opened. Webster had followed in one of his massive orations. Ellsworth, Sprague, Lawrence, and others followed. It was growing late, and the audience were getting weary. Prentiss had been heard of, and expectation was on tiptoe. He was so awed and overwhelmed by the spirit of the place, as he confessed to his friends, that he could not speak; but finally a toast was given that brought him to his feet. It was, “Mississippi and her distinguished Representative. We welcome him most cordially to this hall, consecrated to the cause of our country's independence. He has fought a good fight, and deserves and will receive the gratitude of his country.” Prentiss arose and said,—

“I return my most sincere and profound thanks for the honor that has been done to me and to the State which I have the good fortune in part to represent. I hardly know in what form to present what I have to say, or where to begin. It has been my lot, especially of late, to address my fellow-citizens on various occasions and under almost all possible outward circumstances. Sometimes I have spoken to them under no other roof than the broad arch of the heavens; at other times canopied by the branches of the primeval forests of the Southwest; at others within the structures of the hands of man; but never have I stood before an audience in such circumstances as here surround me. Never before have I listened to the echo of my own voice from the walls of old *Faneuil Hall*. (Cheers.) I hardly know whether to address myself to the dim and venerable shadows of the past or the more real and palpable forms which meet my eye. Faneuil Hall may be justly styled the Mecca of liberty. (Great cheering.) Ay, and the Mecca of Whigism also. (Immense cheering.)

“I came hither as a pilgrim from a far-distant home to lend my feeble aid in doing honor to one of the greatest champions of both. I feel as I

stand in this place a holy awe upon my soul. The very walls and rafters of the building seem *redolent* of the spirit of American liberty. The air I breathe in this spot is healthful and instinct with life. I would recommend those troubled with political maladies to come here. This is a Bethesda in which they may wash and be clean from whatever disease they had. Yes, let the lame, the halt, and the blind and those possessed with Loco-foco devils all come and be made whole. (Immense cheering.)

"I have said that I came as a pilgrim, and have been admitted as such; but now I am in, I shall claim far more. I shall claim my place on this floor as a son of Massachusetts, for I first drew the breath of life under the wings of the authority and institutions of the old Bay State. Maine, now almost a match for her foster-mother, was then a part of this ancient Commonwealth. (Great cheering.) But I claim the seat on yet higher grounds: I claim it as a fellow-citizen of this broad Union; and as such it is my right and duty to render the public tribute of my gratitude to every illustrious patriotic son of the republic. Though I count the distance of my home from this hallowed spot by thousands of long and weary miles, yet my heart beats in sympathy with all the hearts around me. (Great cheering and shouts of applause.) My State and your State rest on the same 'broad platform of the Constitution,' " pointing to the Webster motto in the hall. "The national banner, bearing the glorious insignia of that immortal possession, wrapped alike in its sacred folds the State of Mississippi and the State of Massachusetts.

"In the palmy days of the ancient republics, he who had saved the life of a citizen was held more worthy of honor and reward than he who had taken the life of an enemy. How great was the honor, how boundless the rewards due to him who had saved that Constitution which had been cheaply purchased by thousands of lives, and would be cheaply preserved by the sacrifice of tens of thousands! (Long-continued and loud applause.) This was no trivial occasion, no unmeaning solemnity. Crowns and ovations used in former days to be granted to those who had fought well the physical battles of the country and vanquished her enemies on the bloody field, but it had now come to be understood that it required a greater amount of genuine courage, and all those qualities which bring true renown, to fight successfully the civil battles of a nation than to triumph on land or ocean. (Loud cheers.) From a little personal experience of a recent date I can assure you, fellow-citizens, that a more desperate enterprise could not well be undertaken in times like these than to go forth as a well-appointed knight, and enter the lists with such foes as were now threatening to subjugate this free and happy land. He had not only to meet honorable adversaries in the fair, open fields of argument, that would be in comparison a light and pleasant task, but he must also be prepared, like a warrior in some enchanted castle, to encounter foes in every hideous and revolting shape. He found himself surrounded not merely by titled knights with nodding plumes and lances in rest, but by reptiles and wild beasts, by

raving hyenas and venomous serpents. Ay, and it was no mistake to say that he might chance to meet a 'roaring lion' in his path. (Laughter and loud cheering.) It was therefore fit and right, it was but the discharge of a debt, to render the highest public honors to those who had braved these dangers and come off safe and triumphant through them all. (Cheers.) It had been the charge of a Spartan matron to her son when sending him forth to the combat, 'Return to me with your shield or on your shield.' The Whigs in the late contest had received such a charge from the maternal voice of their country. It had followed them through the loudest tumult of the fight, and though they may have failed in achieving a perfect victory, they had not lost the shield, they had still held fast to the Constitution. (Great cheering.) It was a fearful thing that in a country like this, where, according to the theory of the Constitution, the rulers were but the servants of the people, the people should stand in dread of their legislation. Yet I appeal to all who hear me whether, when the last Congress had adjourned, they did not all feel as if an incubus had suddenly been lifted from their breasts? Did not their bosoms swell and heave a long sigh of relief when they had the certainty that no more *experiments* were at this time to be brought forward and forced upon the country? (Joyous shouts of response here echoed from every part of the hall.) Was it not a terrible condition for a nation when their chief consolation was the inability of the government to do good?—when their great safety lay in this, that the Legislature had adjourned?

"In the late Congressional contest the Whig minority were in a situation somewhat like that of the American forces on Bunker Hill (cheers), when the British army marched against them in all the proud pomp and circumstance of war,—banners flying, a grand park of artillery, plentiful numbers, and well-dressed and well-paid officers commanding troops perfectly drilled into implicit obedience. They came marching on to the sound of martial music, while the flames of burning villages lighted them on their way. Thus did the forces of the administration move forward upon the Whig lines in solid column. With all their myrmidons drawn up in battle array, high in hopes and confident of success, with a majority so devoted and so sure that they dared openly to avow the sentiment that the people must look out for themselves, Congress was only to provide for the government. It was no duty of government to provide *relief* for the people,—no such thing was in the Constitution. No, the great government ship, with *all her officers*, was able to weather the storm, and the little black cutter was to be filled with the abandoned crew and turned adrift to sink or swim. No sorrow, no sympathy, was felt or even affected for the condition of the country till, in the progress of things, the distress reached some of themselves. Then there was a wincing and a shrinking, but none dared openly to complain. They did shudder a little when the poor souls whom they had turned adrift were seen to go down in the tempest, like Don Juan's wrecked sailors,—

'They grieved for those who perished with the cutter,
And also for the biscuit-casks and butter.'

(Laughter.) Yes, they did grieve a little when the lean and skinny hand of adversity knocked at their own door and their pockets failed to jingle with the bright gold which had glittered so resplendently in their promises to an abused and deluded people. This led them to suspect that perhaps the country might possibly be suffering from a slight temporary inconvenience; but the petitions from the thousands and tens and hundreds of thousands which were inundating the tables of the House could not even then gain a hearing. Never had they been thoroughly awake till the lank and hungry hounds of their own kennel began to howl around them for '*supplies, supplies! more supplies! instant supplies!*'—not for the people, but for the government.

"Then the cry was, 'The government must stop; the government must go down.' Well, sirs, if this government must go down, I want it shall go down ADMINISTRATION first, head foremost. (Deafening shouts and repeated cheers.) I do sincerely believe that never since men have dwelt upon the face of this green earth and had rulers over them was there ever an administration seen in any country of the globe or in any age of time more utterly callous to the sufferings or the wishes of the people. And I will say further that I do not believe in any country of the world would such a destruction of public property, without the presence of an invading enemy, and proceeding from the acts of the government alone, have been endured without a national convulsion. No other people on the face of the earth but the free citizens of this republic would ever have submitted to it. (Great and loud cheering.) No, sir, not in Turkey itself. Had the sultan by his despotic edict suddenly thrown the subjects of his throne as far back from their previous condition, bad as it might have been, as this country has been thrown back by the mad experiments on its currency, he would in the next night have slept in the Bosphorus. (Shouts of "That's so!") And why has it not been so here? I will tell you why. The American people well know that they have the remedy in their own hands. They well know that they still hold the reins of power; and if their steeds prove restive and dispute their pleasure, they know another thing, that they hold the *whip* as well as the reins. (Laughter and cheering.) We have had to fight a hard battle, and through the aid and blessing of Heaven we have been able to save the citadel of the Constitution. Rely upon it, the worst part of the contest yet remains. We contend with a veteran foe; though worsted, they are not vanquished. They have lost a battle, but, like the squadrons of the desert, they will sweep around and reappear with a new front, but under the old flag. Sir, is it not so? Even since the adjournment I hear they have put forth a new bulletin, evincing a determination to hold on to the same policy. Had I been consulted, I should have counselled that very course. They seem to be demoralized. They have been steeped so long in wickedness that they are

under a judicial blindness. They remind me of a simpleton who, in a great storm at sea, being in mortal fear, went and lashed himself to an anchor, so that if the ship did go down he at least might be safe. (Loud cheers and laughter.) So has this administration tied itself fast to the sub-treasury policy; and may the genius of gravitation carry them so straight and so profoundly to the bottom that not a bubble shall rise to mark the spot where they went down! (Cries of "Amen!" "God send it!" Cheers.) I may as well utter the honest truth, for even a short experience in public life has convinced me that plain open speech is the best policy. I believe that a part of the mischief which this administration has effected may be traced to its very weakness. We have not dreaded it as we ought to have done. It has been suffered to gnaw as a worm where it should have been crushed as a serpent.

"One of the gentlemen who have addressed you has been pleased to say that I have fought a good fight, and recreant indeed should I have been could I have turned my back in such a contest. The reference, I presume, was to the late struggle in my State. For though thousands of miles removed, your intelligence has fully apprised you that an inroad was made on your own rights and on the Constitution by the foul and nefarious decision in the House of Representatives in regard to a late Mississippi election. (Cheers.) I fear, fellow-citizens, that the great fundamental principles of our institutions have not enough been looked at. We glory in the institutions themselves, and consider them as the strong bulwarks of our freedom, while we too much forget the vital principles upon which they rest. These broad and general principles are like the roots of the everlasting mountains, they lie deep, are out of sight and forgotten, but they are nevertheless the pillars of the earth. We are too apt to think of them as abstractions, as barren generalities, not coming immediately home to our business and bosoms. We cannot conceive it possible that any man should dare attack them; but our security is our danger. They may be attacked. They *have been assailed*. One of these great principles of our freedom is the election franchise, and this has been attacked in the persons of the Representatives of Mississippi. We thought this was a thing so settled that no one would dream of attempting to disturb it; but we contend with a foe that knows nothing of civilized warfare. (Laughter and cheers.) They assailed this citadel of our freedom, and had the people of Mississippi submitted to it, had they yielded the key of this their last refuge, their liberties would have been gone, nor would they have deserved any longer to be free. But they were not thus stolid, thus base, thus craven-hearted. They manfully resisted the assault. They were true to themselves, true to you; for this was your question as much as theirs. (Cheers and applause.) Your rights, our rights, the rights of every man, woman, and child in every State were in danger. They stood on the steep precipice of imminent and present destruction, but they were rescued. (Shouts and cheering.) Yet when I think how close was the contest, how

narrow the escape, I tremble for the future; and I now repeat the warning so often uttered, the price of liberty is unsleeping vigilance in guarding it. You must be like your patriot fathers. You must be the *minute-men* of the Constitution. (Immense applause.)

"Another great principle is attacked with equal desperation: it is the right of property. Tenets are advanced here in this free republic which would not be tolerated under the worst government of Europe, nay, of the world. It is openly asserted that the *rich are the natural enemies of the poor*, and the practical corollary from that position is that, therefore, the poor must wage perpetual warfare against the rich. Nor is this an idle theory; it is attempted to be made a practical question. It is advanced, not as in some obscure debating club, by a set of raw and green lads just escaped from the trammels of their minority, but in the halls of Congress, and by men of experience, standing, and character. It would be an insult to ask you whether such a doctrine is to prevail among American citizens. And if it did, how is this imaginary line ever to be drawn? Fix it where you will, there are tens of thousands of the rich who would consider themselves as among the poor, and as many thousands of the poor who would find themselves among the rich. Nor could it remain fixed for a day or an hour, for he who is rich to-day may be a beggar to-morrow; while, on the other hand, thousands born to poverty are continually enrolling themselves among the opulent of the land. I have observed, especially in the West and Southwest, that the most prosperous, honored, and wealthy are apt to be the men who commenced their course in life with no fortune but their hands, their industry, and their energy of spirit. The truth is, all classes in this country are mutually dependent upon each other, as in the busy hive, where those who return laden impart their stores, and those who are empty need only to go forth in order to return laden. There is no natural hostility between the different classes of society. Such a doctrine should be trampled under the foot of every American freeman: it is a viper, and should not be suffered to show its head. Let us put it to death by common consent. (Cheering.)

"There is another precious vital interest which is assailed with no less desperate rashness: it is our Union itself. This is attempted to be destroyed by arraying the local prejudices in mutual hostility, by stirring up a sectional warfare,—the North and the South, the East and the West,—as though the common glory and the common interest of the whole country was not more than sufficient to outweigh a thousand times the local and minor matters in which we differ. But though politicians, actuated solely by a selfish and parricidal ambition, seek to rend asunder what God himself has joined in everlasting bonds, there is a hand that will arrest the impious design,—a hand they despise, but which they will find too strong for them,—I mean the hard hand of MECHANICAL LABOR! (Great cheering.) Yes, sir, that mighty hand, and long may it be mighty in this free and equal land,—that mighty hand will link these States together

with hooks of steel. The laboring population of this country mean to live together as one people, and who shall disannul their purpose? See how they are conquering time and space! See the thousand steamboats that traverse our lakes and rivers; ay, and that, leviathan-like, begin to make the ocean itself *to boil like a pot!* Look at their railroad cars glancing like fiery meteors from one end of the land to the other; blazing centaurs with untiring nerves, with unwasting strength, and who seem to go, too, on the grand *temperance* principle, laboring all day on *water* only! (Laughter and loud cheering.) Think you the American people will suffer their cars to stop, their railroads to be broken in twain, and all their majestic rivers severed or changed in their courses because these politicians choose to draw a dividing line between a Northern and a Southern empire? Never, sir! never! Proceeding on those great national principles of union which have been so luminously expounded and so nobly vindicated by your illustrious guest (cheers), they will teach these politicians who is *MASTER*. Let us hang together for fifty years longer, and we may defy the world to separate us! (Shouts and repeated cheers.) Let us but safely get through this crisis, and our institutions will stand on a firmer basis than ever! (Cheers.)

"Let it never be forgotten, fellow-citizens, that these institutions are ours in trust. We hold them for a thousand generations yet to emerge from the stream of time. They are sacred heirlooms, confided to our keeping for those who are to come after us; and if we allow them to be impaired or sullied while passing through our hands we are guilty of a double crime,—we are traitors alike to our *fathers* and to our *posterity*.

"True, we are threatened from without as well as within. When I left my far-distant home I left not far distant from it thousands of warlike Indians, congregated and armed by the policy of this administration, consulting, plotting, meditating vengeance. They number, it is said, sixty thousand fighting men. *You* have given them rifles, and *nature* has given them the vast prairies in their rear, and tens of thousands of wild horses which they know well how to break in and to ride. Their hearts burn with wounded pride and boil with meditated revenge, and who knows how soon they may return on us, Mazeppa-like, to pay us home for all their injuries? I know that in stating the dangers of the far West I shall not be heard with indifference, though I speak in the far East. No, we are one body, and where one member suffers all the rest suffer with it, or one member prospers all the rest rejoice with it; and I hold it a high duty of those citizens who come from the distant parts of our wide Union to assure their fellow-citizens of the perfect sympathy and unanimity of feeling which pervades the entire people of this confederacy. Yes, we are one people for weal or for woe. When I cannot come from Mississippi and call the men of Boston my fellow-citizens, my kindred, my brethren, I desire no longer to be myself a citizen of the republic. (Cheers, long

and loud.) Yes, we are all embarked in one bottom, and whether we sink or swim we will swim or we will sink together."

Here the hall rang with triumphal shouts, clapping of hands, rounds of cheering; handkerchiefs waved, and the trombones of the band pealed a note of Union with the cries of the assembly. Mr. Prentiss concluded with the following toast:

"The Commonwealth of Massachusetts. Foremost among the States in the formation of this republic; second to none in the ability, integrity, and patriotism which she has always contributed to sustain it."

At the very outset of this speech Prentiss seemed to strike, as he always did, the right key to entrance his auditors. Their applause was so tumultuous at first that they interrupted him too often; but gradually this subsided, until at length they repressed their enthusiasm, except when some remark of his compelled it to burst its bounds, as is shown in the published accounts.

Edward Everett, himself the Cicero of America, in describing in his "Recollections" the difficulties under which Prentiss labored, such as the lateness of the hour, the fact of others having already spoken, etc., says,—

"He was, however, from the outset completely successful. He took possession of the audience from the first sentence and carried them along with unabated interest, I think, for above an hour. It seemed to me the most wonderful specimen of sententious fluency which I ever witnessed. The words poured from his lips in a torrent, but the sentences were correctly formed, the matter grave and important, the train of thought distinctly pursued, the illustrations wonderfully happy, drawn from a wide range of reading, and aided by a brilliant imagination. That it was a carefully-prepared speech no one could believe for a moment. It was the overflow of a full mind swelling in the joyous excitement of the friendly reception, kindling with the glowing themes suggested by the occasion, and not unmoved by the genius of the place. Sitting by Mr. Webster, I asked him if he had ever heard anything like it. He answered, 'Never, except from Prentiss himself.'"

CHAPTER XII.

It was during this summer of 1838, and just after the Faneuil Hall speech, that I first met Mr. Prentiss, after a long separation, and a very pleasant event it was in my life. My brother, Major Shields, with his bride and my mother, took me along with them on a visit to the home of Prentiss's mother in Portland. The meeting between the two mothers was just as affectionate as though they had always been friends. The one had been kind and gentle towards the stranger youth in a strange land, and the other had appreciated this as only an absent mother could. Each had watched the marvellous flight of the boy to fame, and it would have been difficult to tell which was the prouder of the two, the adopted or the real mother.

I remember how Mr. Prentiss looked then. He was very quiet, and seemed to be *enjoying* his rest. Of course the newspapers were teeming with accounts of his recent efforts, some in praise and some in criticism. I remember one of the opposition papers had criticised the word "*redolent*," as used inappropriately to the occasion. Prentiss did not acknowledge the justice of this criticism, and said that it was "the right word and used in the right place."

Brief and pleasant was our sojourn in Portland, and the two mothers parted with the kindly feelings engendered by past memories now ripened by a personal acquaintance.

Mr. Prentiss was the lion of the place, and I observed how frequent were the calls of the young men, who were justly proud that he was a native of their city. In spite of his efforts to escape adulation it poured in upon him. He was strongly solicited to speak in Portland, but gracefully declined, and to escape further importunity he once more "fled to the White Mountains." There he revelled in the luxury of its bracing air and enjoyed himself in a frolic with nature.

Upon his return, however, he was not long permitted to remain in quiet seclusion. The Whigs of New York determined to seize him, as it were, *in transitu*. Learning that it was his intention to return home *via* that city, they tendered him a public dinner. The invitation was headed by Gulian C. Verplanck, followed by the names of forty-seven others of the most distinguished citizens of that metropolis. Mr. Prentiss yielded to the call and made his arrangements to meet it. Leaving Portland, he reached New York about the middle of August. By referring back the reader will remember the sombre feelings of the boy of eighteen who trod those streets just eleven years before. What a contrast in his situation *then* and *now*!

He spoke to a packed house in the Masonic Hall. He had rested and was in fine spirits, and of course, as usual, the audience was carried away by enthusiasm. From the report of this speech we judge he laid aside the lighter armor of the hustings and put on the heavy armor of the statesman. He could always adapt himself to his audience, and he knew he had now to speak to the solid men of the great city. Colonel Stone, the editor of the *Commercial Advertiser*, says of it, that he had "heard him more brilliant in wit. But he was then less argumentative, and in fact less *able*, his speech of the evening being the effort of the statesman, whose main design was to address himself rather to the understanding than to the imagination and passions of his audience."

This, if I remember correctly, was the first year that a steamer had ever crossed the Atlantic. The success was hailed as a great achievement, and the steamer "Great Western," which had just made the first trip from Europe, lay in the harbor at New York, and was an object of great interest to all the people. It was while Prentiss was in the city that her officers gave a banquet. He was invited. The occasion was a convivial one, and of course he was in his element. An appropriate toast brought him to his feet, and it is said that he even eclipsed himself. The trident of Neptune had yielded to the genius of Fulton. The home of the leviathan was made to boil like a pot. The Old and the New World were more closely linked than ever. The great Atlantic could now be ferried. Such was the fervor

of his eloquence that even the British tars applauded him. I cannot say whether or not this *amphibious* oratorical effort of his was ever reported; but I remember the occurrence, and how, when he was complimented about it, he jocularly replied, "I'm great on steam!"

It was during this visit to New York that he again met with his friend, Judge Wilkinson, with whom he was intimate and confidential, and to whom he would unbosom himself. The story of their interview at this time is so beautifully told that it is almost a portrait of *the man* as we knew him. Wilkinson writes,—

"Prentiss presented the moral idiosyncrasy of a man of the first order of intellect who was utterly devoid of ambition or vanity, and who, although he highly relished a manifestation of mind in others, did not seem to value himself a *sou* for the possession of it. He even despised those who followed after him on account of his fame, and felt disgusted and not a little scandalized at the height to which he had been so suddenly raised."

Never was a truer picture drawn in so few words. He further says,—

"As we walked along Broadway that day, his arm in mine, a crowd of persons gathered about him and followed after.

"'Prentiss,' said I to him, 'this is a long and lofty stride you have taken. Don't you feel a little giddy at your sudden elevation?'

"'No,' he calmly replied; 'I have known for years what I know now, that I could accomplish what I have accomplished. I cared not for the opportunity, but was quite content to live and die unheard; but opportunity came, and I seized it. As to having my head turned by this excess of praise, I am really sickened by it, and to avoid it intend to return from this point to Mississippi by sea.'

"'Were you composed and self-possessed when you rose to your feet for the first time in Congress?'

"'Entirely so; as much so as if I had been beginning a speech before old Squire —, a justice of the peace of Vicksburg.'

"'Your style is more figurative than it used to be, and some say you do not reason now as well as you declaim.'

"'They are mistaken, I think. The truth is, the natural bent of my mind is to dry, pure ratiocination; but finding early that mankind, from a petit jury to the highest deliberative assembly, are more influenced by *illustration* than by argument, I have cultivated my imagination in aid of my understanding.'

"He never at any other time spoke to me so long about himself."

The two friends soon parted, little dreaming, the one how soon he was to be plunged into distress, and the other how nobly he was to rescue him.

Finding that "fleeing to the mountains" did not save him from persecution, he took to the sea, and returned home *via* New Orleans. When he reached this place, after a long and tedious voyage, he was hailed by a salute of twenty-six guns. The people poured in upon him, and a dinner was tendered him. This he declined, but they forced a speech in reply to a complimentary address from Judge Jackson :

"Equal in power and brilliancy to similar efforts which had astonished Congress and won for him a place in the front rank of American orators. His popular style, now mounting to the majestic, now playfully descending to colloquial simplicity, was admirably adapted for carrying away the hearts and heads of the warm-hearted denizens of the South ; yet were his avowed principles so pure, his patriotism so evident, that Minos himself might have sat in judgment on him and found no fault."

He was escorted to the boat, and while "Auld Lang Syne" was pealed forth by the band he left the spot which was afterward to be his home. He reached Vicksburg about the 20th of September, and, as usual, was received with acclamations. A public dinner was given, and he had to meet the cry that afterward became the "slogan" of the South. He was accused of abolition proclivities, of being Northern in his sentiments, of affiliating with abolitionists in Faneuil Hall, etc. He closed his speech with the noble Union sentiment,—

"I could pity these foolish men, whose patriotism consists in *holding* everything beyond the limited horizon of their own narrow minds, but contempt and scorn will not allow of the more amiable sentiment. It is said against me that I have Northern feelings. Well, so I have, and Southern, Eastern, and Western, and trust that I shall ever, as a citizen of this republic, have liberality enough to embrace within the scope of my feelings both its cardinal points and cardinal interests. I do not accuse those who differ with me of a desire to dissolve the Union. I know among them as honest, honorable men as belong to any party, but I do most seriously think that the Union cannot long survive such a line of argument and feeling as that to which I have alluded. Indeed, if such sentiments are well founded, it ought not to continue ; its objects and uses have ceased. Still, I do most fervently pray that such a catastrophe may be averted, at least that my eyes may not witness a division of the re-

public. Though it may be a day of rejoicing for the demagogue, it *will prove* a bitter hour for the good man and the patriot. Sir, there are some things belonging to this Union which cannot be divided. You cannot divide its glorious history,—the recollections of Lexington and Bunker Hill. You cannot divide the bones of our Revolutionary sires; they would not lie still, away from the ancient battle-grounds where they have so long slumbered. And the portrait of the Father of his Country which hangs in the Capitol, how much of it will fall to your share when both that country and that picture shall be dismembered?"

He closed by announcing that he would serve out his present term, but decline a re-election.

His private business had, of course, been sadly neglected, new cases came pouring in upon him. In a letter written at this time to his brother he alludes to his Vicksburg property, states that he is still annoyed by petty suits concerning it, but has not the slightest fear of the result. Thus toiling for himself, toiling for the public, and toiling on, he seemed to be proof against being broken down.

He was extremely averse to returning to Washington, but was compelled to do so under a high sense of duty. Therefore closing up his business as far as he could, he left for the Federal capital by the middle of December. Among his first acts on taking his seat, to wit, on the 31st of December, was the calling up of the resolutions, heretofore mentioned, introduced by him at the last session, in relation to the resolution of 5th February unseating himself and his colleague, but he could not get them to a hearing. On the 14th of January, 1839, he made another attempt to bring them up, but failed: they were left on the table, there to sleep forever; at least I can trace them no farther.

It was on the 28th of December he delivered his speech on the defalcations of the government officials. The House being in committee of the whole on the President's message, he spoke as follows:

"Mr. Chairman, I had intended upon a former occasion to have expressed my views on some of the topics embraced in the President's message, more especially the subject of the recent defalcations. I am, however, so unfortunate as to be viewed by the official eye of this House through an inverted telescope, and it is not often I can obtain the floor. With much pleasure, therefore, I avail myself of the opportunity at present afforded me.

"That portion of the message to which I shall principally turn my attention, to wit, the defalcations of public officers, has been already ably considered by my friend, Mr. Wise, of Virginia, as well as by the distinguished member, Mr. Bell, of Tennessee. But it is a subject which cannot be too often or too thoroughly discussed. Its examination will, I am confident, aviscerate more of the principles upon which this government for some time has been administered, and furnish us more useful lessons for guidance, than any other matter that can occupy our deliberations. I am sorry to observe a rapidly-increasing hostility on this floor to the discussion of great political principles. One would suppose, in listening to some gentlemen, that Congress was constituted like a county court, for the trial of petty individual claims, instead of being the great political tribunal of the nation, whose province and duty it is not only to notice all important events in the action of the government, but to investigate the causes from which they have resulted.

"Defalcations of a most alarming character and of an immense amount, carried on and concealed for a series of years by the collector of the principal commercial city of the Union, have been recently developed. The President has seen fit to call our public attention to the case, and to make in connection therewith divers suggestions as to the best mode of preventing similar occurrences hereafter. 'It seems proper,' says he, 'that by an early enactment, similar to that of other countries, the application of public money by a public officer of the government to private uses *should be made a felony, and visited with severe and ignominious punishment.*' He further recommends that 'a committee of Congress be appointed to watch the officers who have the custody of the public moneys, and that they should report to the Executive such defalcations as were found to exist, with a view to a prompt removal from office, unless the default was satisfactorily accounted for.'

"The Secretary of the Treasury has also given a report upon the same subject, in which he expresses his astonishment that such an occurrence should have happened without his knowledge, exhibits, like the President, a most holy horror at the enormity of the offence, and recommends the appointment of an additional tribe of officers to watch over those already in power as the best mode of avoiding similar mishaps in future.

"To listen to the well-assumed astonishment of the President and Secretary at the discovery of Swartwout's peculations one would readily suppose that defalcation under the present administration, like parricide among the ancients, had heretofore been a crime unknown, and consequently unprovided for by justice. Harken to the philosophical musings of the President upon the point:

"The government, it must be admitted, has been from the commencement comparatively fortunate in this respect. But the appointing power cannot always be well advised in its selections, and the experience of every country has shown that public officers are not at all times proof

against temptation.' Wonderful sagacity! unparalleled discovery! Who will deny the title of 'magician' to the man who has developed the astounding fact 'that public officers are not all times proof against temptation'? The embezzlements of Swartwout have caused this truth to flash upon the sagacious mind of the chief magistrate, and with a philanthropic eagerness he recommends that we put a stop to this wickedness by making it a penitentiary offence.

"Mr. Chairman, if I should tell you that all this is sheer hypocrisy, gross and miserable pretence,—a tub thrown out to amuse the popular whale and divert his attention from the miserable and leaky canoe which bears the fortunes of this administration; if I should tell you that during the last five or six years a hundred cases of defalcation have occurred,—more outrageous in principle, more profligate in character than the one we are recommended to investigate; that the President has continued defaulters in office, knowing of their violations in duty, knowing of their appropriation of the public moneys to private uses; that the Secretary of the Treasury has during that whole period habitually connived at these defalcations and extended over them the mantle of his protection; if I should tell you that these defalcations constitute a portion of the 'spoils system,' that system which has been to this administration what his flowing locks were to Samson,—the secret of its strength; if I should tell you all this, I should tell you no more than what I conscientiously believe, no more than what I shall attempt to prove before this House and the country. These defalcations I shall trace to their origin, and not stop to inquire so much into their amounts as into the *causes* which have led to them. It is not the question *where is the money*, but *where is the guilt*, that I wish to investigate. The recent developments to which our attention is invited are but some of the *bubbles* that are everywhere breaking upon the surface of the still and mantling pool. I shall not stop to measure their relative size or color, but will, unpleasant as the task may be, dredge for the corrupt cause which lies at the bottom. These cases are but the windfalls of the tree of Sodom,—Executive patronage. Heretofore the Representatives of the people have in vain urged an examination into the character of its fruit, but it has been guarded with more vigilance than were the golden apples of the Hesperides. Now our attention has been solicited to it by the President. Is he in earnest? Let him but give us a chance to shake this tree, and he will find its rotten pippins falling from every limb and branch. But our attention is called particularly to the case of Swartwout. The administration has delivered him over to our tender mercies; they have dropped him as the bear when hotly pursued drops one of her cubs, for the purpose of distracting the attention of the hunter and so escaping with the rest of her young. I for one shall not be thus diverted from my purpose, but will follow the dam to her den, and there, if possible, *crush the whole brood*.

"Swartwout has been found out. This is the unpardonable sin with

the present party in power. Their morality is the Spartan morality,—not the *theft*, but the *discovery of the theft* constitutes the crime. Sir, if every office-holder's mantle were thrown aside, how many, think you, would be found without a stolen fox fastened to the girdle?

"Sir, I have no confidence that the President has recommended this investigation in good faith, or that his partisans here intend to permit it. They dare not do it. They are not yet sufficiently maddened, scorpion-like, to dart the sting into their own desperate brain. No, sir; this is a mere *ruse*. Regardless of the maxim that 'there is *honor among thieves*,' the best of the office-holders are very willing to turn State's evidence against Swartwout, to gain *immunity for themselves and favor with the Commonwealth*. Let this administration give us a fair committee, favorable to investigation, not packed by the Speaker; throw open to us the doors of your departments, those whitened sepulchres within whose secret vaults corruption has so long rioted and revelled; let your insolent subalterns be taught that they owe some allegiance to the laws; compel them to submit their official conduct to a rigid examination by this House; then, and not till then, will I believe them in earnest; then, and not till then, shall I expect any good to come of investigation. But, sir, though little is to be expected from the action of this House, I anticipate much good from the discussion. This hall is the *ear of the nation*. What is said here touches the auditory nerve of the whole country. Before this mighty audience do I impeach both the President and the Secretary; not before the Senate,—no, sir, but before the people,—before fifteen millions of freemen.

"I charge them with knowingly *appointing* and continuing in office *public defaulters*.—men who had appropriated public moneys to private uses; who had committed in office acts of as great moral turpitude and deserving as much odium as attaches to the case of Swartwout,—acts which the President now thinks are deserving of the penitentiary. I charge the Secretary with having caused by negligence and *knowing* wilful connivance some of the most important defalcations which have occurred. I charge him specifically with having in one case literally watched a defalcation through a period of more than two years, and seen it gradually swell during that time to upwards of one hundred thousand dollars. I charge him with having permitted in numberless instances the repeated and continued neglect and violation of what he himself asserts to be a *paramount* duty, without removing from office or even reprimanding the delinquents. I charge him with having in his official capacity received and favorably considered correspondence degrading to his high office, insulting to him as an honest man, and of corrupt and profligate character. Sir, the Secretary can only escape by the plea of *non compos mentis*. Out of his own mouth I will convict him. I will but let loose upon him the documents he himself has furnished, and, like the hapless Actæon, he will be torn to pieces by his own hounds.

"The cases which I am about to examine in support of my position have been selected at random from the reports of the Secretary himself, and I present them merely as specimens. Scores of the same sort, the phosphorescent glimmerings of corruption, break through the darkness and illuminate the path of the Secretary from the very moment he came into office. Should I treat of them all, the 4th of March would find me here and the *chronicles* of the defaulters still unfinished."

He here cited the case of the receiver of public moneys at Fort Wayne, showing, by correspondence begun in 1836, delinquency on the part of the receiver, his struggles to relieve himself by deposit of collaterals, etc. Mr. West, who, it seems, was a sort of rotary portion of the department, called an examiner, proceeded in person to make special inquiry into the matter and report to the Department the result. Mr. Prentiss quoted from this report, and proceeded :

"By this it appears that the receiver has turned his office into a *shaving-shop* for himself and his friends. It further appears that he had not merely failed to deposit the public moneys according to law, but had *used them*, for when he came to make a settlement with Mr. West, after having scraped together all the means within his reach, after selling drafts, *obtaining a private discount at Richmond*, bringing forward all the public money in his hands, and, in the language of Mr. West, *some other money*, still he falls short five thousand two hundred and six dollars and eighty-four cents, which he does not profess to account for in any way. In other words, by this report the receiver stood before the Secretary and President an acknowledged, confessed, and convicted peculator and embezzler of public moneys to the amount of five thousand two hundred and six dollars and eighty-four cents, without a shadow of excuse or defence. And what, think you, was done with this defaulter by the moral, upright, sin-hating Secretary? And what has been done by the President, who thinks this offence ought to be made felony and punished with the penitentiary? Before I answer this question I will read you a letter from a then Senator of the United States, which will probably throw some light upon the subject. It will be perceived this letter was written during the examination of the office by Mr. West, and was doubtless intended to obviate the effect of the papers."

Mr. Prentiss here read the letter, which in substance stated that he, the Senator, had been requested to write. That he was gratified; deposits satisfactory. He hoped minor irregularities would be overlooked. Receiver reputed to be an honorable man, and hasn't intentionally done wrong, and closes, "It *would*

to some extent produce some excitement if he were removed, for he has many warm and influential friends both at Fort Wayne and in Dearborn County, from which he removed to his present residence. Better let it be. With much respect," etc.

"With much respect. Ha! I doubt it! The honorable Senator could not have had much respect for the honorable Secretary, or he would never have dared to write him such a letter. Those two last sentences, like a lady's postscript, contain the whole substance. 'It would produce excitement,' forsooth, to remove a defaulter; 'he has influential friends.' 'Better let it be.' Sir, in these few words you may behold the morality, the policy, and the strength of the party in power. Like the flash language of the 'London swells,' they open to those who understand the true meaning the whole secret of political roguery. Being interpreted, the honorable Senator's letter would read: 'Dear Levi,—I am told Colonel S. is a defaulter and you are going to turn him out. Levi, you're a fool. You must do no such thing. It would injure the party to turn him out. He's a strong politician and has got a great deal of influence. He isn't cheating us, it's only the people. If you know which side your bread is buttered, keep him in office.'

"And what says honest Secretary to all this? Listen, here is his answer:

"TREASURY DEPARTMENT, September 7, 1836.

"SIR,—Your letter of 31st ult. is received, and I am happy to inform you that Mr. S.'s explanations have been such that he will probably continue in office.

"I am, very respectfully, your obedient servant,

"L. W., *Secretary of the Treasury.*'

"Which, being interpreted, reads: 'Dear Billy,—Who's a fool? I never intended to turn him out. I only talked about it to gull the people and make them think I was honest. He shall be retained.' Ay, and he was retained, and soon rendered such good service to his master as well approved the sagacity which refused to part with him. He has been continued in office by Mr. Van Buren, and is now receiver at Fort Wayne.

"There is one more circumstance developed by this document to which I invite attention. The Secretary, in his letter of the 23d of May to the receiver, tells him 'that any neglect or inattention to these requirements (that is, to deposit monthly any money on hand and make monthly returns thereof), unless satisfactorily accounted for, will require of me, from a sense of official duty, that you be reported to the President, with a recommendation that you be removed from office.'

"Now in connection with this extract read the following letter from the receiver, written just on the eve of the Presidential election and about six weeks after the correspondence between the Senator and the Secretary.

This letter is of date the 27th of October, stating he had forwarded to the deposit bank one hundred and four thousand dollars in silver, there to remain till he arrives with the gold and paper money. That his Democratic friends think he ought to remain over till after Presidential election, 7th of November, 1836. He had concluded to wait, and, after it was over, would leave on same evening or next morning to deposit, with all funds on hand up to that time. He'll write again. Sales rapid; paid mostly in gold and silver. His quarterly report, be forwarded next mail; ought to have been done sooner only for want of help in office; hereafter can get his reports off without much delay after the close of the month and the quarter. I am yours, respectfully.

"What think you of this. The repeated injunction of the Secretary had been that at the end of each month he should deposit the public money in hand, and if he failed to do so without good excuse he should be removed from office. Well, sir, he fails to make his deposit in October, not by accident or necessity, but voluntarily, and sends in advance his excuse to the Secretary. What is that excuse? *My Democratic friends thought* he ought not to leave until after the election for President; in other words, that his duty to the *party* was paramount to his official duty; that his obligations to Mr. Van Buren (the candidate for the Presidency) were greater than his obligations to the country, in whose service he was at least nominally employed. Accordingly, he neglected his most important duties for many days that he might use in the election that political influence of which the honorable Senator speaks with so much unction.

"The Secretary receives this excuse, recognizes its sufficiency by not recommending his removal from office, as he promised to do in case the reason should not be satisfactory, and has thus convicted himself of entertaining and practising the profligate doctrine that interference in elections by an office-holder is not only justifiable but involves a higher degree of obligation than the mere performance of official duty. It was not merely to exercise his elective franchise as a citizen that the receiver violated the injunction of the Department; this right he could have exercised where his duty called him as well as at Fort Wayne. But that would not do. He had influence at the latter place which it was important to the party he should exercise. Having thus violated his solemn obligations for the purpose of assisting Mr. Van Buren into the Presidential chair, it was of course no more than fair that the President should return the favor. He did return it. He continued the receiver in office, and thus at the same time exhibited his gratitude, violated his duty, and prostituted his high station. This, Mr. Chairman, is but a specimen of that corrupt reciprocity of service which constitutes the ligature that binds together like the Siamese twins the Executive and the office-holders.

"Sir, the document from which I have the foregoing extracts is a public record, and was furnished to the Senate at the time when the chief magistrate, Van Buren, was president of that body. Of course he cannot

plead ignorance of its contents. Yet in the face of the report of West, of the profligate letter of the Secretary, of the shameless avowal of the receiver himself that he neglected the paramount duties of his office for the purpose of exercising his influence at the election,—in the face of all this the President neglects and refuses to apply the power of removal, and the unblushing partisan still remains in office, ready, doubtless, at the next election to play again the game which proved so profitable at the last.

“I will no longer detain the committee with this disgraceful case, but, leaving it and the parties concerned to the judgment of the country, I will take the case of the receiver of the land-office at Columbus in my own State. In this instance I expect to convict the Secretary of the Treasury, not of a single isolated case of neglect of duty, but a continued daily miserable winking and connivance at malversation and defalcation during a period of two years, implicating alike his honesty, his veracity, and his capacity. First, however, I will show what importance the Treasury Department attached to the duty incumbent upon collectors and receivers of depositing in bank at stated periods the public moneys in their hands, because it was from the continued violation of this duty that the defalcation in the case of the receiver at Columbus as well as in most others occurred; because it will leave the Secretary no excuse from the supposed insignificance of the duty for the gross and palpable negligence on his part which makes him in justice and truth *particeps criminis* in the whole affair.

“I hold in my hand a book of some four hundred pages, entitled ‘Letters from the Secretary of the Treasury,’ transmitting copies of letters to collectors and receivers who have failed to comply with the laws and regulations for their government, and also copies of reports of examinations of land-offices since the 1st of January, 1834. It is Document 297, and was furnished the House by the Secretary on the 30th of March, 1838. It is the most extraordinary publication that ever fell under my observation. It is a moral, political, and literary curiosity. If you are a laughing philosopher you will find in it ample food for mirth. If you belong to the other school you cannot but weep at the folly and imbecility which it exhibits. The Secretary must have been frightened when he compiled it, for it is ‘without form, and darkness rests upon its face.’ It contains two hundred and sixty letters to defaulting collectors and receivers,—in some instances from ten to twenty to the same defaulter,—yet so curiously is the book constructed that you must read the whole of it to trace a single case. Its contents are as strange as the ‘hellbroth’ that boiled and bubbled in the witches’ caldron. From this fragment of chaos I shall proceed to extract and arrange such matter as is material to my purpose. And first, to show what importance the Secretary attached to the duty of depositing the public money in banks at stated periods, so that they might not accumulate in the hands of the collector, and thus

afford temptation to defalcation. The first letter I shall quote from Mr. Taney, then Secretary of the Treasury."

Beginning with January 16, 1834, Mr. Prentiss then quoted nine letters, reaching to July, 1835, repeating the injunction :

"I give these extracts from the letters and circulars of the Secretary to show the periodical deposit of the public money was a *paramount duty* of the collectors and receivers. If, then, I can show that the Secretary neglected to enforce the performance or punish the neglect of this paramount duty, it may be fairly inferred that he is either unwilling or incompetent to enforce in his subordinates the performance of any duty whatever."

Mr. Prentiss here introduced some fourteen letters about the receiver at Columbus, beginning with complaints on the part of the Secretary of the Treasury, beginning February 6, 1835, and extending to September 26, 1836, followed up by warnings, etc. After commenting on each, he proceeds :

"The Secretary is truly a man of much patience. He must be a lineal descendant of Job. He gives to his subordinates 'line upon line,' precept upon precept, here a little and there a *great deal*. He strives hard to learn them honesty. Whether his ill success is attributable to the master or the pupil I shall not pretend to say.

"At length the receiver does what neither the Secretary nor the President dared to do. He *dismisses himself from office*, or in other words, he *resigns*. He resigns a defaulter for one hundred thousand dollars. He had quite a moderate appetite compared with Swartwout and some others. There is but one more morsel of this correspondence, and it is of a piece with the balance. It consists of a regret upon the part of the Secretary that legal steps have been taken to attempt to secure what was due the government.

"Now will any one dare deny that General Jackson and Secretary Woodbury were literally guilty of this defalcation? Did it not result from their wilful neglect of duty, from absolute and unqualified connivance? For two years and a half this receiver was never for a single instant out of default. He was during that whole period in continued violation of the acknowledged '*paramount duties* of his office.' The Secretary was aware of the whole of it. The case at length became so ripe that it falls of itself, a good round golden apple of the value of one hundred thousand dollars and upwards."

Mr. Prentiss here briefly epitomizes the correspondence, and then proceeded to the next case.

"But to our task. The next defaulter whom I shall mention was —,

the successor of the other, a follower in his footsteps. In little better than six months after he had been in office we find the following account of his fidelity. It is extracted from the report of one V. M. Garesché, who was sent out by the Secretary to examine the condition of the land-offices, dated June 14, 1837. In relation to the receiver he says, 'The account of the receiver, which I have made out and transmit herewith, presents against him a balance of fifty-five thousand nine hundred and sixty-five dollars and fifty-four cents. His own account makes it fifty-three thousand two hundred and seventy-two dollars and seventy-three cents. It is also annexed. His assets, of which I also send you a list, amount to sixty-one thousand five hundred and forty-nine dollars and forty-eight cents, *rating the land at one dollar and twenty-five cents only*, but might probably realize double that amount. The man *seems really* penitent, and I am inclined to think, in common with his friends, *that he is honest*, and has been led away from *his duty by the example of his predecessor and a certain looseness in the code of morality, which here does not move in so limited a circle as it does with us at home*. Another receiver would probably follow in the footsteps of the two. You will not, therefore, be surprised if *I recommend his being retained in preference to another appointment, for he has his hands full now, and would not be disposed to speculate any more*. He will have his bond signed by the same sureties and forwarded in a few days to Washington. This speaks favorably. He has, moreover, *pledged his word* that if retained he will strictly obey the law and *receive nothing but specie in payment for lands*. He tells me he is about selling a great portion of his lands. That and some other negotiations will enable him to discharge a large portion of his debt to the United States before the expiration of another quarter. Lenity towards him, therefore, might stimulate him to exertion which severity might perhaps paralyze. I have in the mean time enjoined the closing of the land-office until the bond is completed and returned. No land has been sold since the 29th ult.'

"Sir, who but a profligate panderer could have written the above? Who but a political bawd could have received it without indignation and contempt? '*You will not be surprised if I recommend his being retained, for he has his hands full now.*' No, I presume the Secretary was not surprised, though any *honest* man would have been at the corrupt and wicked proposition. The licentious familiarity of this, as well as other of the reports and letters to the Secretary, cannot fail of arousing in the breast of every pure-minded man sentiments of scorn and disgust.

"'But,' says this polypus feeler of Levi Woodbury, 'the man seems really penitent, and I am inclined to think, in common with his friends, that he is *honest*, and has been led away from his duty by the example of his predecessor and a certain looseness in the code of morality, which here does not move in so limited a circle as it does with us at home.'

Now, sir, a more infamous slander was never promulgated against an intelligent and moral community, for a more intelligent, upright, and moral com-

munity cannot be found in the republic than that which is the subject of this vile libel. Why, sir, I do not believe there is a citizen of that community who would not spurn with honest and indignant scorn the profligate sentiments of this self-constituted *censor morum*.

"No, sir, it was that looseness of political morality which marks the party in power, which more especially illustrates the official conduct of the Secretary of the Treasury; that induced the receiver to embezzle the public property. And he did it with a vengeance. His accounts exhibit his defalcations as of some fifty thousand or sixty thousand dollars in money. But it was a more splendid robbery than this: it was of some twenty-eight thousand acres of the public domain, which, by virtue of his office, he transferred to himself without ever paying for it a single dollar. Sir, this was a bold operation; most of the appropriators of other people's property prefer personal chattels, something which can be concealed, and if necessary taken across the waters. But there be land-rats as well as water-rats, and the receiver was, it seems, a land-rat. What a huge slice he cut from the public loaf,—twenty-eight thousand acres of land! Why, it is more than a German principality. The Norman robber when he divided out the broad lands of Merry England gave not to his haughty barons such wide extent of wood and field. Who would not be the feudatory of this administration, when the tenure is so easy and the rewards would constitute materials for a dukedom?

"Sir, the Secretary deserves impeachment for this case alone. Why has he not proceeded to set aside the illegal and false title to these lands? The receiver never had a shadow of a right to them. Yet his pretended title has been recognized, and portions of the land are now being sold by the officers of the government as the property of the delinquent.

"After this extensive land conspiracy what does the Secretary do? Does he with virtuous indignation turn him out of office? No, sir; he permits him to resign at his leisure. Two months after Garesché's report he writes: 'I am happy to hear of the frank and honorable course proposed in your letter of the 12th ult. It would be convenient to have the bond and resignation arrive here by the early part of September.' Yes, sir, according to the morality of the Secretary, resigning after robbing the government of twenty thousand or thirty thousand acres of land is very '*frank and honorable*.'

"I will give you one case more, and then I'm done. It is the case of the receiver at Vandalia. As early as June 23, 1834, Mr. Taney wrote to him admonishing him of his neglect in depositing the public money, and warning him of the indispensable duty of doing so. On the 20th of October, 1834, Mr. Woodbury writes him on the same subject, called to his mind his continued neglect and violation of this duty, and tells him if he fails any longer in its performance 'it will be my painful duty to submit the case for the action of the Executive, and to recommend another person as your successor.' Again the complaint is renewed,—4th

of December, etc. Instead, however, of being removed for this continued contumacy, the receiver receives the following letter from the Secretary,—February 12,—‘Stating in substance his renomination, but his faults in future will not be overlooked.’

“But it seems the receiver thought differently, and came to the conclusion that from ‘this evidence of the President’s regard’ future omissions would be overlooked; and it seems his opinion on the subject turned out to be more correct than that of the Secretary, for under date of July 25, 1836, we find the indefatigable Mr. Woodbury still complaining of the receiver’s failures to deposit the moneys on hand, yet he does not have him dismissed. September 2, 1836, another warning; December 8, 1837, another. Well, sir, instead of being removed he is permitted, like the Columbus receivers, to retire with honor upon *his own voluntary resignation*, as appears by the following and last letter of the infamous series:

“‘TREASURY DEPARTMENT, January 26, 1838.

“‘SIR,—Your letter of the 7th instant is received, and your resignation is accepted by the President. I regret that so large a balance stands unadjusted in your hands, and trust that certificates of deposit for the amount with the Bank of Missouri will without delay be forwarded here.

“‘L. W., *Secretary of the Treasury*.

“‘W. L., *Vandalia*.’

“Now, how dare the President and Secretary to say that defalcation deserves to be punished with the penitentiary when they did not consider it deserving of removal from office in the case of the Vandalia defaulter for \$——?

“But the Secretary says he was not bound to notice these defalcations; that it was impossible for him to scent them out. After reading the foregoing letters and extracts,—‘elegant extracts,’ they may be called,—I am inclined to think Mr. Secretary Woodbury has taken cue in this matter from the following fable, which if my friend from Virginia (Mr. Wise) will do me the favor to read, he will afford a moment’s relief both to the House and myself.”

Here Mr. Wise read with much humor from a paper handed him by Prentiss:

“And how did it happen, Pat, that Mither Van Buren always kipt in with the ould genral as he did?”

“Why, I’m thinking, Murphy, it was because he always had such a bad cowl’d, jist.”

“And what did his having a cowl’d to do with the matter at all at all?”

“Why, did ye niver hear, Murphy, me boy, of the fox that had a *could*? Then I’ll tell ye. Onest there was a lion that wanted to know how polite all the bastes were. So he made a great smell in his den with brimstone or so’thing else,—I don’t mind what jist,—but it smelt enough

to knock ye down intirely. Then he called to the bear, and says he, 'Good-morning, Misther Bear, and what do ye think of the smell here this morning?' And says the bear, says he, 'Why, it smells bad.' Says the lion, 'What's that ye say? Take that,' says he (ateing him up altogether); 'take that, and see if it will tache ye politeness, ye unmannerly son of a cub!'

"Now when the bear was nte up the lion called in the monkey and asked him the same question precisely. Now the monkey, seeing the bear that the lion had swallowed lying dead in the corner, says he, 'May it please yer majesty,' says he, 'it's jist the most delightful smell I ever smelt in me life, at all at all.' 'So it is,' said the lion, patting him on the head, aisy like, so as to take the breenth clane out of his body; 'so it is,' said he, 'and now ye'll not tell another lie soon, I'm a thinking.'

"Now when the lion had kilt the bear and the monkey he called in the fox to him, and says he, looking mighty savage and ready to ate him up if he should make the laste *faux-paw* at all, 'Good-morning, Misther Fox,' says he. 'How does me parlor smell to-day?' And says the fox, wiping his nose with the brush of his tail and pulling down the lid of his eye as much as to say, 'De ye see any green there, me honey?' 'Faith,' says he, 'May it please yer majesty, I've a very bad cowl'd this morning, and it's me that can't smell at all at all.' So the lion laughed, and told the fox he was a clever baste, and that he could tread in his footsteps if he could straddle wide enough, and that all the other bastes should mind him or he would ate 'em up as he'd done the bear."

"The Secretary," resumed Mr. Prentiss, "though in other respects he resembles a much larger and less cunning animal, yet in this matter has certainly taken a lesson from the fox. '*He's had a very bad cowl'd and could't smell at all at all.*' No, sir, the smell of corruption, which has been so long steaming up from his department, has not, it seems, affected his olfactories. Besides all this, his friends excuse him by saying that the government will probably not ultimately lose anything by these defalcations, that the money will be recovered back either from the defaulters or their sureties. Sir, if a thief is detected and compelled to disgorge the subject of his larceny, does it relieve the rogue and his accomplices from guilt? Does it extinguish the crime? Upon the answer to this question depends the validity of the Secretary's excuse.

"It is also urged in his favor that defalcations have occurred under other administrations, that the public money has been stolen before. This plea I feel compelled to allow to its whole extent. Brave men lived before Agamemnon, and great rogues before Levi Woodbury. In justice to the Secretary I cannot deny that his *pets* are not the first thieves on record, and I give him joy for the able defence which his friends have extracted from this remarkable circumstance.

"And now, Mr. Chairman, what do you think of this Secretary of the

Treasury? Of his epistolary talent? Of his capacity and fitness for the station he occupies? He resembles much, both in manner and morality, that worthy old lady who lived at the 'Mug,' in Bulwer's 'Paul Clifford,' and rejoiced in the name of 'Marjory Lobkins,' more familiarly called 'Peggy Lob.'

"His correspondence with his subalterns cannot fail of calling to your recollection the exquisite admonitions of honest 'Peggy' to 'Leetle Paul.' Thus moralized, not Levi, but the kind-hearted dame: 'Mind thy ketechnism, child, and reverence old age. Never *steal*, specially when any one be in the way. Be modest, Paul, and stick to your sivation in life. Read your Bible and talk like a pious 'un. People goes by your *words* more 'an as your *actions*. If you want what's not your own, try and do without it; and if you can't do without it, take it away by *insinivation*, not bluster. They as swindles does more and risks less than they as robs.'

"Yes, sir, people goes more by your *words* than by your actions. Well has the President studied this maxim, and cunningly did he practise upon it when he recommended that defalcation should be made a penitentiary offence. Peggy Lob placed in Leetle Paul's hands the sum of five half-pence and one farthing. 'There, boy,' quoth she, and she stroked his head fondly as she spoke (just as Levi caresses his subordinates). 'You does right not to play for nothing, it's loss of time; but play with them as be less than yourself, and then you can go for to *beat 'em ef they says you go for to cheat*.'

"Ay, and it has not been long since this was the doctrine of those in power, and 'to go for to *beat* those who say you go for to *cheat*' became the watch-word of the party. I recollect well, and my honorable friend who sits near me (Mr. Wise) recollects still better than I do, those days of terror when he had to legislate, as he told us the other day, with '*harness on*,'—when the best argument was the pistol and the only law was club law. It was the time when 'Hurrah for Jackson!' constituted the 'open sesame' of power, which gained at once admittance into the robber's cave and participation in the plunder. Then General Jackson had but to whistle, and

'Instant from cuppe and heath arose
Bonnets and spears and bended bows.'

His followers, like those of Roderick Dhu, started up in every direction, ready and eager to perform his bidding. He had but to point his finger and his fierce bloodhounds turned their muzzles on the unfortunate victims of his wrath. Then were the saturnalia of office-holders, and, like the locusts of Egypt, they plagued the land. Few dared to whisper of corruptions or defalcations, and a bold man was he who proposed to investigate them, for it was sure to bring down upon his head the rage which never relented and the anger which nothing but previous persecution could assuage. There was one man, however, who blanched not

before General Jackson's frown, and who dared to propose investigation into frauds and corruption, which became so palpable and gross as to be an offence in the nostrils of the community. He occupied at that time a seat in the other end of this building as Senator from my own State, a State upon whose laws and institutions his talents are indelibly impressed. The political history of Mississippi is illustrated by his name from its very commencement. He served her in all her departments as legislator, judge, and governor, advanced her prosperity, and added to her character. What he was as Senator you all know. He stood proudly among the proudest and lofty among the loftiest at a time when the Senate-chamber contained the garnered talent of the country; when its intellectual giants shook the whole nation with their mighty strife; when, sir, it enclosed within its walls the most transcendent deliberative body that ever was assembled upon this earth. The floor of that body was his proper arena. To a correctness of judgment which would have given him reputation even without the capacity of expression he joined a power of debate which for parliamentary strength and effect was unsurpassed. To all this was added a stern, unyielding attachment to his political principles and indomitable boldness in expressing them.

"Do you not recollect, sir, when General Jackson, like Charles I., strode to the Legislature and thrust among the Senators a despotic edict more insulting than if he had cast at their feet a naked sword? It was that fierce message which commenced with breaking down the independence and character of the Senate, and finally resulted in that worse than felon act (the expunging resolutions), the desecration of its records; but the mandate passed not unopposed or unrebuked. When it burst like a wild beast from its lair upon the astonished body whose degradation it contemplated and in the end accomplished, most of the distinguished Senators were absent, but he of whom I speak was at his post. Single-handed and alone, like Cocles at the head of the bridge, he held at bay the executive squadrons, and for a whole day drove back the Mamelukes of power, till at the sound of his voice, as at the sound of a trumpet, his gallant compeers, the champions of freedom, the knights not of the black lines, but of the Constitution, came flocking to the rescue. Sir, it was a noble scene, and worthy of the best days of the Roman republic,—a Senator of the United States in bold and manly pride trampling under foot executive insult, and protecting at the same time the honor of his country and the dignity of his high station. There was a moral chivalry about it far above the heroism of the field. Even now the contemplation of it makes the blood thrill through the veins and flush the forehead to the very temples.

"I need not tell you that man's name was George Poindexter,—a name that will long and honorably live among the lovers of independence and the haters of tyranny. But *he dared to propose an investigation into the frauds and corruptions* of the government, and from that moment his

doom was sealed. The deep, turbid, and restless current of Jacksonism swept him from the State in whose service the best of his life had been expended, and ostracized from her councils, he became an exile in other lands.

" 'Sir, the office-holders of this country form an oligarchy too powerful to be resisted. Why was not the receiver of Fort Wayne removed? why not he of Vandalia? why not the two of Columbus? I will tell you. The administration did not dare to remove them, even had it wished to do so; like pashas, they had become too powerful for the sultan, and would not have hesitated in twisting the bowstring round the neck of the messenger who presented it.

" Since the avowal of that unprincipled and barbarian motto, that 'to the victors belong the spoils,' office, which was intended for the use and benefit of the people, has become but the plunder of party. Patronage is waved like a huge magnet over the land, and demagogues, like iron filings attracted by a law of their nature, glitter and cluster around its poles. Never yet lived the demagogue who would not take office.

" The whole frame of our government, the whole institutions of the country, are thus prostituted to the uses of party. I express my candid opinion when I aver that I do not believe a single office of importance within the control of the Executive has for the last five years been filled with any other view, or upon any other consideration, than that of party effect; and if good appointments have in any instance been made and benefit accrued to the country it has been an accidental, not a voluntary result. Office is conferred as the reward of partisan services; and what is the consequence? Why, the office-holders are not content with the pitiful salaries, which afford only a small compensation for present labors, but do not in their estimation constitute any adequate reward for their previous political services. This reward, they persuade themselves, it is perfectly right to retain from whatever passes through their hands. Being taught that all moneys in their possession belong not to the people but to the party, it requires but a small exercise of casuistry that they have a right to retain what they may conceive to be the value of their political services, just as a lawyer holds back his commissions. The administration countenances all this, winks at it as long as possible, and when public exposure is inevitable, generally gives the bloated plunderer timely warning and time to escape with his spoils.

" Do you not see the eagerness with which even governors, Senators, and Representatives of Congress grasp at the most trivial appointments, the most insignificant emoluments? Well do these sons of the horse-leech know that there is more blood in the body than what mantles in the cheek, and more profit in an office than is exhibited by the salary.

" Sir, I have given you but three or four cases of defalcations; would time permit I could give you a hundred. Like the fair sultana of the Oriental legends, I could go on for a thousand and one nights, and even

as in those Eastern stories so in the chronicles of the office-holders, the tale would ever be of heaps of gold, massive ingots, uncounted riches. Why, sir, Aladdin's lamp was nothing to it. They seem to possess the identical cap of Fortunatus. Some wish for fifty thousand dollars, some one hundred thousand dollars, some for a million, and, behold, it lies in glittering heaps before them. Not even

‘The gorgeous East with richest hand
Shower on her kings barbaric pearl and gold’

in such lavish abundance as does this administration upon its followers. Pizarro held not forth more dazzling lures to his robber band when he led them to the conquest of the children of the sun.

“And now, Mr. Chairman, have I not redeemed my promise? Have I not shown that the President is but a hypocrite in his pretended horror at defalcation? That the Secretary is much worse, a weak, imbecile *particeps criminis*? Let his defenders reconcile his conduct in the case of the Columbus receiver with his official duty, with the dictates of common honesty if they can. I dare them to the trial! Let him reconcile his licentious correspondence with the receiver of Fort Wayne and the Senator, and more especially with the reporter in the Columbus office, with the principles of common decency.

“Mr. Chairman, it is not my intention to examine minutely the case of Swartwout. I know not why the President should have selected it out of so many as the subject of special communication. There is, however, one curious matter connected with this subject which I shall notice. The President, the Secretary, and the party all profess to unite in the belief that the defalcations of Swartwout, Price, and others afford the best possible argument in favor of the sub-treasury scheme. Most of these defalcations, say they, occurred under the deposit system, and therefore to that system these losses are attributable. Now, sir, if you look over this Document 297 you will find that out of two hundred and sixty-five letters to receivers and collectors nearly two hundred contain complaints that the public money had not been deposited in bank, but retained in the hands of the officer. If you will look into the cases of the receivers of Columbus, you will see that their defalcations could not have taken place had the Secretary not indulged them in a continued and habitual violation of this duty of periodical deposits. But the proposition itself is grossly absurd. It amounts to this, that the running away of sub-treasurers with large amounts of public money is proof of the safety of the sub-treasury system. In other words, stealing is proof of honesty.

“It is the holding of the money in the hands of the officer which produces the temptation to peculate. By having it in his custody, by continual viewing and counting he comes at length to look upon and use it as his own. The system is corrupt in its tendency. All experience says so.

The first sub-treasurer since the Christian era was Judas Iscariot. He *carried the bag*, and it was doubtless as much by his disposition to appropriate its contents to his own private uses as by the thirty pieces of silver that he was tempted to betray his Master.

"But I understand the Executive goes still further, and, pointing to these very defalcations, demands an additional band of officers to watch the rest and prevent them from walking *in the footsteps of their predecessors*. So Pisistratus gashed himself with unseemly wounds, and telling the people they had been inflicted by his enemies, asked for an additional guard to protect him. His request was granted. Fifty men were given him, with whom he immediately seized upon the citadel and became tyrant of Athens. Let the lesson not be lost when you are asked to increase the number of office-holders.

"No, sir, these defalcations teach other lessons, and one well worth the cost if we will but profit by its admonitions. They teach that the sub-treasury system is but the hot-bed of temptation and crime. They teach that the public treasure cannot be safely confided to individual custody. Sir, this government may determine to watch like Turks with jealous care its golden harem, but it will seek in vain for the financial eunuchs who have the power to guard without the wish to enjoy.

"Mr. Chairman, the amount of money we have lost, great as it is, presents a question of but little comparative importance. If this whole administration were to take passage on the 'Great Western' (the first ocean steamer that had crossed the Atlantic) and, with the treasury in their pockets, follow after Swartwout and Price, I doubt not the country would cry quits and think it a happy riddance. But it is a deep and a vital question how such things are to be prevented in future; how this running sore is to be healed; how this system of negligence and corruption is to be stopped and the action of the government brought back to its original purity.

"Give us the right sort of a committee, one that will go through the departments as Van Tromp swept through the British Channel, with a broom at the mast-head, and something perhaps may be done. But for my own part I look for no permanent good except in a change of rulers. This administration was conceived in sin and brought forth in iniquity. It has not belied its parentage. It is essentially and radically corrupt. In the language of an English historian describing the reign of the eighth Henry, 'it has attained as near to perfect depravity as the infirmities of human nature would permit.' Just before an election it will talk of reform, and deprecate with holy horror the consequences of its own misdeeds; but no sooner is the object accomplished than it returns to its policy like a dog to his vomit.

"I have no hope of reform in the party in power. My only hope is that the people, convinced of their hypocrisy and wickedness, will hurl them from the high places they have so long disgraced. That a consum-

mation so devoutly to be wished for may be obtained let us unite in exhibiting to the country their true principles; let us fasten upon them the responsibility of their actions. In this patriotic work I trust I shall find with me my honorable friend from South Carolina who sits near me (Mr. Pickens). Often has he led the fierce assault against these very corruptions. 'Has his hand waxed weak or his heart waxed cold,' that his war-cry has not tingled in our ears? Surely the 'horn of Roland' will sound again; surely in this his favorite battle he will strike one more blow for Christendom before he renounces the cross and assumes the turban. Sir, I see by his flashing eye his soul is with us; the spirit of the past is rising before him. He recollects that many moons have not yet waxed and waned since this very party who now claim him as an ally crouched and howled like an exorcised demon beneath the magic of his burning words. Let him come out from among them, he and his friends, for they are not of them. Eagles mate not with kites and carrion crows. Sir, I should rejoice to see the gallant gentleman resume his original position; I should be proud to win my spurs under so well-approved and accomplished a leader.

"Let me call to his mind a fable with which he is doubtless familiar. 'A gaunt and ravenous wolf, hastily gorging the spoils of some plundering expedition, was choked by a bone and lay at the point of death. A stork happened to be passing that way, and, moved by an ill-judged pity, extended her long neck down the wolf's throat and extracted the bone. Upon her modestly suggesting the propriety of some reward for so generous an act, the stork was told with a wolfish scowl that *she should consider herself fortunate* that her head was not bitten off during the operation.' Now I take it that it requires no name written under this picture to enable the most obtuse to recognize in the ravenous wolf the present party in power. The picture will also call to mind how this party some years ago, while gorging with wolfish appetite upon the 'spoils,' got a bone in its throat and lay at the point of dissolution. I leave it to the sagacity of the gentleman of South Carolina to say who acted towards the administration the part of the benevolent stork, and to reflect upon the boon she is likely to receive for her kindness.

"Sir, the immense peculations of Swartwout and Price and others, or rather the exposure of them, has alarmed the administration. They propose to make up the losses by retrenchment. And what, do you suppose, are the subjects of this new and sudden economy? What branches of the public service are to be lopped off on account of the licentious rapacity of the office-holders? I feel too indignant to tell it to you. Look at the report of the Secretary of the Treasury and you will find out. Well, sir, what are they? *Pensions, harbors, and light-houses*. Yes, sir, these are recommended as proper subjects for retrenchment. First of all, the scarred veterans of the Revolution are to be deprived of a portion of the scanty pittance doled out to them by the cold charity of the country.

How many of them will you have to send forth as beggars upon the very soil which they wrenched from the hand of tyranny to make up the amount of even one of these splendid robberies? How many harbors will it take, those improvements dedicated no less to humanity than to interest, those rests of commerce to which the canvas-winged birds of the ocean flock for safety? How many light-houses will it take? How many of those bright eyes of the ocean, as my friend from Virginia (Mr. Wise)* beautifully calls them, are to be put out? How many of those faithful sentinels who stand along our rocky coast and, peering far out into the darkness, give timely warning to the hardy mariner where the lee shore threatens? How many of these, I ask, are to be discharged from their humane service? Why, the proposition is almost impious. *I should as soon wish to put out the stars of heaven.*

"Sir, my blood boils at the cold-blooded atrocity with which this administration proposes to sacrifice the very *family jewels* of the country to pay for the consequences of its own profligacy. If they wish to retrench, let them cut down *salaries* instead of *light-houses*. Let them abandon *offices* instead of *harbors*. Let them turn out upon the world *some of their wide-mouthed partisans* instead of the *soldiers* of the Revolution.

"I have done. I had intended to notice other portions of the message, but I shall defer it, for I have already too far taxed the patience of the committee. I shall vote in the House for an investigation, though I do not expect much from it. My hope is in an investigation by a higher authority than this House,—by the people. The evil of the times lies not in particular cases, but in the principles of the party. Legislation cannot reach it. It is a radical evil, and the people alone can cure it. That they will do so, and in the only way it can be done, by a *change of rulers*, I have a high and holy confidence. This administration has eaten, like a cancer, so far into the institutions of the country, that unless the remedy be soon applied it will be too late. I do most conscientiously believe that if the present dynasty is continued in power constitutional liberty cannot survive. Already our institutions are half corrupted. Already anarchy and despotism are leagued together against the Constitution and the laws. Let him who doubts it look at the proceedings in a neighboring State, and the conduct of the Federal Executive in relation thereto.

"Let Mr. Van Buren be re-elected, let him continue to be guided by the counsels of Mephistopheles and Asmodeus, the two familiars who are ever at his elbow, those lords the one of *letters* the other of *lies*, and it will not be long that this mighty hall will echo to the voice of an American Representative. The Capitol will have no other uses than to attract the curiosity of the passing traveller, who in melancholy idleness will stop to inscribe upon one of the massive pillars, '*Here was a republic.*'"

* Prentiss told Wise "it was this poetic figure that gave the first inspiration to make this speech on the defalcations."

If the reading of the above speech even now stirs the blood, what must have been its effect when clothed in the impassioned declamation of the orator himself? The reader will see how varied were the sources from whence he drew his illustrations and how pointedly he applied them. Sacred and profane history, poetry and burlesque, fiction and fable were alternately called into play "to point the moral and adorn the tale." The impeachment struck the auditory nerve of the nation, and its tone re-echoed through the country, and no doubt contributed in no small degree to overthrow the administration of Mr. Van Buren.

CHAPTER XIII.

On the 21st of February the following very exciting drama occurred in Congress. It seems that, on the 16th and 17th of January, Dr. Alexander Duncan, of Ohio, offered certain resolutions about the Swartwout defalcation, accompanied by some remarks. Mr. Stanley, of North Carolina, in the beginning of his reply to the remarks of Dr. Duncan, insinuated that he (Dr. Duncan) was an abolitionist. The speech of Mr. Stanley afterwards appeared in the *National Intelligencer*, occupying four or five columns. On the 19th of February there appeared in the *Globe* newspaper the rejoinder of Dr. Duncan. In order to clearly understand the course pursued by Mr. Prentiss we quote some extracts from this publication of the *Globe*, which was signed by Dr. Duncan. After referring to his resolution about Swartwout, the article proceeds as follows :

"Mr. Stanley, of North Carolina, followed me in reply. At the commencement of his remarks he insinuated that I was an abolitionist. I promptly pronounced the insinuation a base falsehood and a foul detraction, whether it dwelt upon the lips of the unprincipled calumniator or floated on the breeze in the corrupt, poisonous, and slanderous Federal sheets of the day. My intention at the time was to *insult* the member. So he understood me, so all who heard me understood me. My meaning was, that the *member* was a base liar and a foul calumniator, and the only reason that he was *indirectly* thus denounced was because the rules of the House prohibited me from doing it *directly*, without laying myself liable to its censure. All this was well understood at the time, and for this intended and well-understood insult I held myself in readiness to give the member any satisfaction which he might have the moral courage to seek ; but no disposition to seek for redress was manifested within the time I had a right to expect it, or within the time it might be expected from a man who had any regard for his honor or reputation. So I was disposed to let the member go for what I believe him to be, a mean poltroon and a base liar, and which I believe he may at any time and in any place be pronounced with impunity."

It then alludes to the appearance of Stanley's reply in the *National Intelligencer*, etc., expresses surprise at its length, and says no leave was given by the House to publish it, etc., and continues :

"I say that the speech published in the *National Intelligencer* of the 4th inst., purporting to be 'the remarks of Mr. Stanley in reply to Dr. Duncan,' never was delivered in the House of Representatives, nor any other place, except through the polluted columns of the corrupt, bank-bought, servile, degraded sheet through which it makes its appearance, therefore its very caption or title contains a base falsehood and a mean attempt at fraud and imposition upon the public."

Here follow letters from Messrs. Turner, Bynum, and Moore, going to show that Stanley's reply could not have exceeded fifteen minutes, and further, that Mr. Slade (a distinguished abolitionist of the day) was prompting Mr. Stanley by pointing out certain extracts from one of Dr. Duncan's letters. For this presumptuous interference on the part of Slade Dr. Duncan was highly indignant. After stating that Stanley must have consumed a great part of the fifteen minutes in answering him, and the other part in reading garbled extracts from his letter, and that he, Stanley, had "shown the white feather," the publication continues, as follows :

"The member (Stanley) first regretted that he had not the letter (of Dr. Duncan) in his possession, but it was soon furnished. Who furnished it? Mr. Slade, of Vermont. Ah, Mr. Slade! I am happy to meet you on this board of exposition. I have been talking all this time about (to use a vulgar phrase) 'the little end of nothing,' a thing that it requires the use of a telescope to see, if it be at any considerable distance, hardly the ninth part of a man, a thing now out of time and out of place, a thing that the Almighty never intended for any other purpose than the use of the bodkin, shears, and thimble. But you, sir, are a man six feet five in your shoes. I feel a freedom in talking to you, and in order to have a full and ample case I will splice the member from North Carolina to you, and for a short time will consider you in *cahoot*, and in that capacity I will hold myself responsible to you for all I say. You profess to be an abolitionist, religiously, morally, patriotically, and civilly, a modern abolitionist, even, so I have been told, to *amalgamationism*. You furnished the member from North Carolina, did you, with my answer to the abolitionist, from which to read garbled extracts? You stood at his elbow, did you, prompting him and pointing out suitable passages of my letter to enable him to make an anti-abolition speech, and attach to my name that of

abolitionism? Only think of this! A rank abolition Whig from the North in *cahoot* with a rank anti-abolition Whig from the South in exposing the pernicious doctrine contained in a letter which deprecates slavery in the *abstract*; or rather a Northern abolition Whig making a convenience and a parrot of a Southern anti-abolitionist, through which to expose the dangerous tendencies of an expression of hostility to slavery in the abstract, and its effects, without regard to time or place! What base sophistry, what black hypocrisy, what political swindling for base and corrupt party purposes! Yes, black hypocrisy, take it as you may," etc.

It then proceeds to show that though he, Dr. Duncan, was opposed to slavery in the abstract, still he was not an abolitionist; accuses Stanley of shirking the Atherton resolutions:

"No, he was not at his post. He was, spaniel-like, skulking from his duty and his post at the nod of party discipline, but when backed and prompted by the abolitionist Slade, he assumed all the pertness of a whiffet, hissed on, puppy-like, to do that which a bigger dog had not the courage to attempt," etc.

It seems that Stanley, in his speech, had turned to Mr. Southgate, of Kentucky, and asked him whether the ruin and desolation described in Dr. Duncan's letter applied to his (Southgate's) district, and the latter had replied, "No; it is a foul libel, a base slander upon my constituents and upon my State." The doctor denounces Southgate for this answer:

"I say if you had read my letter you would have had no grounds to warrant the remark you are said to have made. If you had never read the letter, and knew nothing of its contents, only from the base and unmanly manner in which its garbled fragments have been exhibited, you were wholly unjustifiable in your remark. You made the remark under the broad, protective shield of parliamentary privilege. You have not the moral courage to face me or any other man and make such a remark without the protection of such a privilege. It is a shield and a privilege under which many a puppy in man's shape has taken refuge. I think your remarks were unwarranted, uncalled for, and unprovoked. And, sir, on my own responsibility, and without claim to privilege, permit me, by way of offset and compromise, to reciprocate the remark by another, which I think better founded in truth, that is, that you are a liar and a scoundrel; and permit me to add, also, that in my opinion you are better qualified to adorn the gambler's board, the brothel, and the doggery than the halls of Congress."

The other portions of the publications refer bitterly to another

party, not, however, a member of Congress, who was accused of being a defaulter.

The above extracts will give some idea of the violence of the publication. The whole may be found in page 210 of the *Congressional Globe*, Third Session, Twenty-fifth Congress.

Just after its appearance, that is, on the 21st of February, Mr. Prentiss, of Mississippi, said he rose to a question of privilege, and offered the following resolution :

“ *Resolved*, That this House proceed to inquire, 1st, Whether Alexander Duncan, a member of this House from the State of Ohio, be the author of a certain publication or publications under his name in relation to the proceedings of this House and certain members thereof, published in the *Globe* newspaper of the 19th instant. 2d, Whether by said publication or publications the said Alexander Duncan has not been guilty of a violation of the privileges of this House, of an offence against its peace, dignity, and good order, and of such grossly indecent, ungentlemanly, disgraceful, and dishonorable misconduct as renders him unworthy of his seat in this House and justly liable to expulsion from the same.”

Mr. Yell inquired as to his title to the floor on the report of the select Committee on Public Lands. The chair replied he was, but a question of privilege rode over everything else.

Mr. Prentiss then proceeded to comment at length upon the language used in the above publication as a forgery, a false libel, and he would not regard it, for the honor of the House, as authentic. Dr. Duncan here interrupted him, and said he would save the trouble of further proof. “I say, sir, I am the author of that publication and of every word contained in it.”

Mr. Prentiss replied, however, he should proceed to comment on the language as if the avowal had not been made.

Wise, in his “*Reminiscences*,” alludes to this speech as follows :

“Once I knew him to be awfully severe upon Dr. Duncan, of Ohio, because he took him for a mere party bully. Sometimes he would burst forth in invective, irony, sarcasm, and strains of indignant eloquence equalling any man who ever spoke.”

After Mr. Prentiss had concluded, Mr. Legaré suggested that the resolution be couched in the form of an inquiry. Mr. Adams said, “As an inquiry he might be prepared to vote for it, but

the substitute involved a question as to the constitutional power of this House to expel a member."

Mr. Prentiss then, as it did not appear to meet the approbation of his friends, withdrew the resolution. An effort was then made to lay the subject on the table, but failed. Mr. Thompson then offered a milder substitute, which was accepted by Mr. Prentiss, "that Mr. Duncan be reprimanded by the Speaker in the presence of the House."

The debate on the resolution was very violent, carried on by Messrs. Jennifer, Conner, Gray, Wise, Mennefee, Thompson, Glasscock, Parris, and Dr. Duncan, "who obtained the floor and addressed the House at some length in explanation, going to show that the language used towards him fully warranted his own retort." Finally, on the 22d of February, the whole subject was laid upon the table by a vote of one hundred and seventeen to ninety-four.

Scarcely had the matter been disposed of before another question of *discipline*, so to speak, was brought before the House. Grave charges had been preferred against Commodore Elliott, of the United States navy. The matter had been referred to a special committee. Mr. Naylor, chairman of this select committee, made a report with accompanying resolutions, stating in brief that Congress had the right to interfere, but ought to do so with caution; that the appropriate remedy was an appeal to the heads of department and to the President; that the time limited to the committee would prevent them from making thorough investigation; that it was therefore inexpedient to commence the investigation, and that the committee be discharged. Mr. Naylor then moved to lay the subject on the table, but withdrew at the request of Mr. Prentiss, who moved its recommitment, with instructions to strike out the first resolution.

It was on this motion that Prentiss spoke, as described by Rev. J. L. Blake in the following letter, which is fully elucidated by the foregoing narrative:

"On the 21st of February, 1839, in the lower house of Congress, there was a tremendous excitement, and the sitting was continued till one or two o'clock next morning, when an adjournment took place, but the subject was to be resumed at the hour of meeting on the 22d. The opinion was

prevalent that it would lead to bloodshed, perhaps, in the midst of the debate, as threats of violence had been freely uttered during the previous evening. The leading persons in the debate were Dr. Duncan, Wise, of Virginia, Prentiss, of Mississippi, Stanley, of North Carolina, Mennefee, of Kentucky, a member from Georgia, and several others, whose names I did not know or have forgotten. The House was crowded of course at an early hour on the 22d, but by effort, in taking an early start, I got a good seat in front of the gallery, with Mr. Prentiss about five feet in advance of me and before me, on the floor of the chamber. The debate was opened at the usual hour, but with a scattering of oil on the surface, so that the threatening aspects of the day previous did not manifest themselves, and at noon the subject was laid on the table. The only speakers I heard on it (I mean that morning) were Wise, Mennefee, Prentiss, Stanley, and Duncan, and there was nothing very remarkable in either. The whole was a kind of pacification. However, as soon as that was laid on the table, a resolution was offered or called up respecting some unofficer-like conduct in the navy. After a brief pause, Mr. Prentiss took the floor and made one of the most beautiful speeches on the navy, its character and utility, I ever heard. He could but have had five minutes for premeditation, and then he was fresh from the excitement of another subject, which had foreboded personal violence, though it is proper to say he was not the one that invited violence, and bid defiance to it. After his eulogy on the navy he threw himself on the accused in a kind of indignant paroxysm. He characterized him as having sacrificed the national escutcheon to the love of lucre,—as impelled by a low-bred, degrading instinct, instead of a pure, hallowed principle of patriotism.

"His diction was easy and chaste, his gesticulation was natural and powerful, and in withering sarcasm the English language could by no imaginable analysis or combination furnish what was superior. On briefly scanning the facts of the case there was connected with each one a biting commentary and a succession of overwhelming epithets falling in uninterrupted rapidity from his lips, like an immense volume of water over a precipitous cataract. When witnessing for the first time the thunders of Niagara and the mist rising in the clouds from the deep abyss, we have stood as we have seen others stand, in amazement. It seems to me it was much so on that occasion in the hall of Congress. The members as well as those in the gallery for a moment appeared unable to speak or move, or even to breathe, save in half-suppressed pulsations. The man in epaulettes looked like a statue, and it is not for me to say whether the fitting blushes on his cheek, sometimes paler than lilac, and sometimes dark as oriental purple, blending and commingling in every possible shade and hue, denoted conscious guilt or remorseless shame. It devolved not on me to be his accuser or his judge, nor do I know how it ended, as on the following day I left Washington. I thought Mr. Prentiss the most naturally gifted orator I had ever heard."

The above account, written years after the speech was heard, shows how deep and profound was the impression that it made. Perhaps the genius of the boy was inspired by the recollection of his father's avocation, whose "home was on the rolling deep," and this personal inspiration may have infused itself into the glowing theme, along with his idea of the untarnished lustre of the American navy.

In spite of his effort, however, the subject was laid upon the table, principally on the ground that other and more pressing subjects were before Congress, and there was not time enough for its thorough investigation.

At this era it will be remembered that there was a dispute between Great Britain and the United States on the question of the boundary-line of Maine. On this question Prentiss took the ground to sustain the national honor. We have no report of what he said, merely that in one of his letters to his family he alludes to the fact that he stood by the *rights of his native State*.

Of all the subjects that agitated the country at this time, none fell with more startling effect upon the ears of the nation than the enormous defalcations of the public officers, as shown by Prentiss's speech, already given. The Whigs seized upon the subject of these defalcations, and by working it as a powerful lever, overthrew the administration of Mr. Van Buren at the succeeding election.

When the discovery first burst upon Congress, of course men of both parties were for investigation. A committee had been appointed by the House; the Democrats declined to act, but one of them, Mr. Gray, of New York, had moved for the appointment of a committee to examine the defalcation of Swartwout, thought to amount to about five million dollars. Upon this Mr. Prentiss spoke:

"I wish the gentleman of New York would make the proposition he has spoken of and save all further debate. Otherwise the House might never be able to find what he and his friends wanted. In selecting members to represent the administration on this committee we have chosen from among those who were most prominent actors here, and who have on all occasions put themselves forward to fight the battles of the administration on this floor. If there is yet a corps in reserve of which we know nothing, let us make our selection. This morning an ill-omened paper has been laid

on my desk. I have seen therein that which indicates that there is no probability of organizing a committee. I will read a small portion of the croaking of the official raven."

He then read the following extract from the *Globe*:

"The three Democratic members elected, viz.: Messrs. Elmore, Cushman, and Hubley, declined serving on the committee. When we left the House to close our paper the opposition majority, now notoriously obtained by a perfect amalgamation of the Conservative with the National Bank party, selected three other Democrats, to be made prisoners in the hands of the committee, having their hands locked by an enemy on each side, like Daniel Boone's men sent out to treat with the Indians besieging his fort. The hardy backwoodsmen soon found that the object of the savages was to make prisoners of them, and acted accordingly. We have no doubt the Democrats will follow out successfully the part played by Boone's men on that occasion, and leave the opposition to experience the fate of the perfidious enemy on that occasion, if their purposes should correspond, as the secret machinations in the appointment of the committee would seem to indicate."

"Now here was a proposition," continued Mr. Prentiss, "thrown out by the organ of the party, that no Democrat should serve, because, forsooth, they cannot get a majority to serve upon the committee. After having professed themselves willing to act, they now come forward, and what do they say? Yesterday personal considerations were urged, but to-day we hear nothing of that kind, but it is openly avowed that the reason why they will not serve is that they will not act unless represented by three of their most astute *lawyers*. Was not the gallant gentleman of New Hampshire (Mr. Cushman), who had taken upon himself the defence of the Secretary of the Treasury before this House, sufficiently *acute* to undertake a similar task before the committee? He is chairman of the Committee of Commerce and ex-district attorney of New Hampshire. Is he not qualified to serve? And if not, where are we to look for the men? Has not the gentleman from New York (Mr. Taylor), with all his modesty, spoken ably and eloquently in defence of the administration upon this very question, and upon the great sub-treasury scheme at the last session? And yet he says that he is not competent to serve. *The very ingenuity with which he has made his argument, and the facility of speech with which he has urged his motion to be excused, show that if he is not a lawyer by study, he is at least a lawyer by nature.* But I say that by his very profession he is better fitted to serve than another man. We are about to examine into the *diseases* of the commonwealth. We want to probe them. We want to apply the purge and the knife, and as I understand the gentleman is a distinguished disciple of Esculapius, he is of course the very man for our purpose."

"It is said there are six against three. If a man is free from all feeling of guilt he has nothing to fear. The House has solemnly decided, and I

thank God that such has been its decision, that they will not trust a committee appointed in the usual way. No, it was to be a committee sincerely favorable to investigation. Three have resigned and three more have been recommended to do the same thing, although I do not insinuate that they have acted on that recommendation. But the objection of the gentleman from New York (Mr. Taylor) is, that he does not understand the subject. Why, sir, the subject is one of common honesty, and I know he understands that. The subject is the exposure of corruption, and, according to the gentleman's argument, we ought to put none on the committee but professed rascals. If he 'who drives fat oxen must himself be fat,' if the committee ought to be composed of rogues, then I admit the gentleman ought to be excused. But I ask the House whether he should be excused upon the ground on which he places it,—'want of capacity and ability.' The colleague of that gentleman (Mr. Gray) has given us a sort of left-handed argument why he (Taylor) should be excused on the ground of incompetency. Did any one ever assert that the latter gentleman was incompetent to be on any standing committee of this House? Would the gentleman say that his colleague was incompetent to do such duty? He was thought competent to be placed on a committee in relation to the banks,—a much more difficult subject of investigation than this, in which the honest man is more needed than the lawyer. We wanted a committee of investigation, and we've got it, and we want honest men to watch over the interest of the administration. We have tried to get them. Where is the corps of reserve of which the gentleman from New York (Mr. Gray) has spoken? We did not know they had twenty men superior to the rest of their party. We thought there was a more democratic equality among them."

Mr. Gray here explained he had said "there were twelve," etc.

"Well," continued Mr. Prentiss, "let's have the twelve of whom the gentleman spoke."

Mr. Gray.—"Before I could do that it would be necessary to have some consultation," etc.

Mr. Prentiss continued: "It is not merely the gentleman from New York (Mr. Taylor) who had asked to be excused: three gentlemen yesterday made the same request. Could there be a gentleman more fitted to serve than the gentleman from Alabama (Mr. Martin)? I trust he will not decline, for he is a distinguished lawyer; though, as I have said, I do not regard that as the best qualification; I look upon it as secondary. We want honest, honorable, and upright men, and in this point of view I have full confidence in all the gentlemen selected, especially the gentleman from New York (Mr. Taylor), and I hope the House will not excuse him. I told you the other day that this matter would turn out like the web of Penelope, that we should unravel at night what we might weave in the day. This committee will have to deal with facts more than with law; and for its purposes I would rather have a farmer or a doctor than a

lawyer. We gave you yesterday the ex-attorney of the State of New Hampshire; there surely you would have had the best of law, but he has declined to serve. I believe another gentleman, who was also excused yesterday (Mr. Hubley), is a sound lawyer. What, then, do you want?

"The other day a gentleman from Pennsylvania (Mr. Fry) quoted from a speech of mine, made in my own State, a passage in which I had said that the party in power had no leaders of distinguished ability in this House. This was a rash and unadvised assertion, and I take it back. When I made it I had *not heard the gentleman from Pennsylvania*. Besides, I hear from the gentleman of New York *there* are twenty members of the party who tower by head and shoulders above the others. All I have to say is to bring them out, show us your gems, and we will set them in this committee, where they shall shine before men, and their light shall no longer be hidden by their own modesty or by our *perversity*."

Again, on December 28, 1838 (p. 74, Third Session, Twenty-fifth Congress), on the resolution to print extra copies of the documents relating to defaulters of the public funds. Mr. Menefee, of Kentucky, having just spoken in favor of the measure, Mr. Prentiss arose and said,—

"Mr. Speaker, I am as well pleased as the gentleman who has just taken his seat at witnessing the *sensation* in certain parts of this House, at every fresh haul of truth from the great deep of this administration's secrets. The great oyster-bed has not been disturbed for years. Now I do not doubt that another grab will bring above water larger and fatter oysters than any that have yet been opened. Yes, there were other fine fish below which had not yet been hooked up or speared. I am for trying all the ways to get at them,—lines, nets, spears, harpoons; any means and all means I am for trying, so that by some means the fish may be made to appear above water. I am happy to perceive, from some compunctions of conscience on the other side, that the party is not as yet '*desperately wicked*'; they were not judicially hardened, there was some little nucleus of moral principle around which better feelings might yet cluster, so as to leave a hope that they might still be snatched as brands from the burning. I had begun to think that the skin of this administration was like that of the rhinoceros, insensible to all attacks and proof against the keenest dart, but I now begin to have a better hope. The *Globe* may admonish, warn, and entreat, but it was in vain. The *Globe* could not stop this debate on corruption. It would go on. The nation would hear it. Gentlemen did not like this word '*corruption*,' but if I thought their ears were not callous I would buy a starling and have it taught to cry nothing but corruption. I would find the administration when asleep, and in its ear I would halloo '*Corruption!*' '*Corruption!*' '*Corruption!*' I would not, according to the advice of the gentleman of New York over the way (Mr. Cambre-

ling), have the anatomical dissection confined to dead subjects. No, there were plenty of living ones whose imposthumes needed the knife. I trust these documents will be published. I want them for two purposes,—first for lessons of morality, and then as models of king's English. My friend (Mr. Menefee) had said they would cut like a *two-edged* sword; ay, like a three-edged one."

The last speech which Prentiss made in Congress was on the resolution of thanks to the Speaker. It must be evident to the reader that he had no great admiration for that gentleman, and did not care to conceal his feelings.

At about the close of the session, March 3, 1839, Mr. Elmore, of South Carolina, moved the following resolution: "That the thanks of this House be presented to the Hon. James K. Polk for the able, *impartial*, and dignified manner in which he has presided over its deliberations and performed the arduous and important duties of the chair."

The question was immediately raised as to whether it could be acted on without a suspension of the rules. Mr. Bell (of Tennessee) hoped no technical objection would be made. Mr. Elmore quoted authority to show it was in order. Mr. Prentiss (of Mississippi) arose and said, "I will not object to the offering of the resolution, but I wish to offer an amendment to it." Mr. Elmore reminded him that the question of order had to be settled first. This, after a little parleying, was withdrawn, and Mr. Elmore said that in offering the resolution he had only followed out a practice of the House which had prevailed from the beginning of the government. Courtesy had always dictated to the members of the House to accord to the Speaker that meed of thanks which was due to his services, etc. Mr. Prentiss said,—

"I came to the House prepared to expect the offering of such a resolution. I have seen indications of its coming, and I have come prepared to offer an amendment to the resolution and to sustain it, which I shall do, if left to sustain it alone. I move to amend the resolution by striking from it the word '*impartial*.' I am unwilling at this hour, when we are about so shortly to leave this hall, to allude to anything which might excite unpleasant reminiscences. I consider this resolution as not a mere matter of form. It had been claimed as a mere act of parting courtesy usual at the termination of every Congress. If it were that, and nothing more than that; if it were the mere touching of the cap and extending the hand to the Speaker who was retiring from office, I would not oppose or object to

it. I am for encouraging the courtesies of life, and we have seen quite enough during the present session to convince us of the necessity of doing so. But this is a *peculiar* case, to which the rules of mere courtesy do not apply. I cannot consent to praise the Speaker for having been *impartial* in the discharge of the duties of the chair, simply because it is not true that he has been *impartial*. It might be said that this was a very small matter, a customary compliment merely. But, as every gentleman knows, in politics it might become a very great thing. A mere thread may be seized upon and by party management may be woven at last into a cable by which to lead bodies of men and to control the Legislatures of States. The present resolution was one which presented facilities for being so availed of. I have no objection to uttering a courteous farewell to the Speaker as a gentleman and wishing him a pleasant journey home, *but I believe* this vote of thanks is to be used as so much political *capital*, to do *political business* upon, and I for one am not disposed to furnish it.

"I say, sir, that the Speaker has not been impartial; the House did not so consider him. In proof of this it would be sufficient to refer to the vote of the House refusing to him on *that very ground* the appointment of the members of an investigating committee to examine into the defalcations of his own party. And though the debate on that subject had rushed and raged through the House like an uncaged tiger leaping in all directions, yet this was a point, and the only point from which it had never departed; here it had fixed its fangs with a determined and deadly hold. Trust the Speaker with that appointment the House would not. And now to pass a solemn vote that the Speaker had discharged his duties in an impartial manner it would be to declare a lie. I never will vote for such a declaration. I never will say what I do not believe, nor record the assertion that the Speaker had been impartial when the House had recorded its own vote to the contrary. I have here in my pocket a little document which would speak very intelligibly as to this Speaker's impartiality. I well know what this resolution of thanks is worth under existing circumstances. I speak out plainly and explicitly, as I am wont to do. I know that the incumbent of the chair is playing a political game in which the smallest amount of capital would be useful to him. In that game I am opposed to him, and I will not by voting this resolution throw it into my own teeth. I would not send that gentleman into his electioneering field with this certificate in his pocket; I would not certify to the people of the United States a positive lie which was to be used against myself and others with whom I act; I would say to the whole country that in the formation of the committees of the House—and what act is of deeper importance?—the Speaker has not been *impartial*. I would not be understood as saying that it was unusual or improper that the Speaker of that House in appointing standing and other committees should place upon them a *majority* of those who corresponded with him in political sentiment; of this I do not complain. But I do believe there is not a legislative body on the

globe where political parties being so nearly balanced the disparity of those parties in the committees of that body were so enormous. I would deal in no loose or general assertions on this subject; I will put my finger upon the facts,—facts which if the gentleman from South Carolina (Mr. Elmore) is able to swallow, his powers of deglutition must be very different from those of mine.

“To begin with the Committee of Foreign Affairs. There were *six* administration men to *three* of the opposition. Is this, I put it to the gentleman, a fair representation of the balance of parties in the House itself? Then there was the Committee of Ways and Means; *every* one admitted its importance as standing at the head of the finances, and how was it constituted? Here again it was six to three. But what was the constitution of the Committee of Elections? Everybody knew that a place on that committee had been no *sinecure* in this Congress. So far from it, the acts and reports from that committee had shaken the pillars of this government as the blind Samson shook the pillars of Dagon's temple; if they had not been absolutely thrown down they had at least been shaken to their foundations. It was a committee in which above all others the strictest impartiality was demanded, for there it was that the demon of party was most likely to rear its hydra head. And how did this committee—a committee of judges—how did it stand? Seven to two? Yes, that was the Speaker's *impartiality*. Well, how stood the case with the Judiciary Committee? Here, again, it was *seven* to *two*, if the distinguished gentleman from Virginia was to be ranked with the administration; but as a change had taken place since the constitution of the committee, it stood on the most favorable statement of *six* to *three*. Here, then, under the action of this *most impartial* Speaker the four *most important* committees of the House were so constituted as to give the administration party, as its very smallest majority, *two* to *one*, and the most important of them all, in a political point of view, had seven on the one side and but two on the other. I don't wish to be understood as derogating in the slightest degree from the character or reflecting on the conduct of the members of these committees; far from it. They acted, no doubt, according to their own views of public duty. I speak only of the *balance* of political power in those committees collectively.

“But how stands the matter in those committees which exert no party or political influence? Oh, there I find quite a different state of things. The Committee of Manufactures contained *eight* Whigs to *one* administration man. Now if their duty had been to *manufacture* politics, does any man believe that such a proportion would have been observed? Oh, no, the balance would have been far different. Then there came the Committee on Roads and Canals, a committee which, however useful and important, exerted no political influence, and it contained seven Whigs. Here the proportion was seven to two. So in the Committee on Revisals and Unfinished Business, seven to two. In the little Committee on Ex-

penditures in the various departments it was still larger ; some of these were all Whigs. Now, did not this show design ? Was there not a reason for so great a *contrast* ? It showed a deliberately adopted principle of action, followed out through the whole selection, and this by a Speaker on whose election to the chair the House had been so equally divided that his election had been carried by thirteen votes only out of *two hundred and forty-seven*. After this *can I vote to declare that this officer had been impartial* in exercising his great and responsible power ?

" This was in the appointment of committees ; and then as to the other cases where the House had been equally divided and the casting vote of the chair decided the question in one way or the other, would any gentleman point me to a single instance, whether of greater or minor importance,—*whether the decision swept away the whole political rights of a State or recognized the official claims of the Globe newspaper*, or settled the smallest question,—where the vote had not been *invariably* given in one direction ?

" I do not deny the capacity of the Speaker, his despatch of business, or his full and thorough knowledge of parliamentary law. I concede all this ; but it is the facts I have just quoted upon which I take my stand, and *deny utterly the impartiality* of the chair, and I never will, out of mere courtesy, endorse a *tool* of the *Executive* or a *tool* of the *party*. A more perfectly party Speaker, one who would be more disposed to bend the rules of the House to meet the purposes of his own side in politics, never had pressed the soft and ample cushions of that gorgeous chair. To say that he had been impartial in the duties of his high office would be but *flattery* ; it would be certifying to what was not true, and I have too often seen the effects of certificates not to be cautious how I give them. I am willing to make the Speaker a courteous parting bow, but I will not consent to let him sit there and do all his party work and then march out with the honors of war. The duties of the chair were too important for this. The presiding officer of that House in effect cut out all the business of that House. It was he who placed before it all its material for action and decided who should work it up. Through the standing committees of that House *his power extended to the utmost bounds of the nation*. It was in some respects beyond that of the President himself. Such an officer ought not to be the *high-priest* of party, that Moloch before whose altars were daily immolated the *dearest* rights of this republic.

" *The present Speaker was, as the House well knew, a candidate at this time for the chief magistracy of his own State, and in the canvass there and throughout all the West this vote would be referred to as an undeniable proof that he had exercised the utmost impartiality while in that chair ; and yet the House itself had utterly refused to trust him. When that damning fact should be brought by his opponents what more would he have to do, should this resolve pass, than to tear from the records of the House the leaf which contained it, and, holding it up to the sun, pronounce all these representations to be unfounded calumnies ?*

"All those gentlemen who did *conscientiously* believe the Speaker had been *impartial* would of course vote for the resolution, but I call upon all who do not and cannot in their hearts believe so, but who do believe that with strong hand he has wielded his *power* for the *purpose of a party*, to vote against it. Let those who know the resolution to be untrue say so by their acts. For one, if I have ever seen the poised needle turn and point with still prevailing attraction toward the pole, I have seen that Speaker turn with equal constancy toward the interest of his party.

"Gentlemen may raise the notes of the *Te Deum Laudamus* as high as they please, but I call upon all those whose free sentiments had been crushed on that floor by the weight of his official truncheon to let the world see that they would not give the lie to those sentiments of indignation which had often been forced from their lips under the smart of oppression. *Let them not give this unguarded, sweeping certificate of good behavior to aid the election of the governor of Tennessee.* Thus to vote a public lie was to set a bad and pernicious example, particularly in a free republic."

Mr. Prentiss concluded by offering his amendment to strike out "impartial."

Mr. Gray replied to the strictures of Prentiss, and moved the previous question on the original resolution, which was carried, and the original resolution of thanks was passed by a vote of ninety-four to fifty-seven. The Speaker responded in a feeling address, in which he expressed his especial acknowledgments to the *majority* of the House for the high and flattering evidence they had given of their approbation of his conduct as presiding officer of the House by the resolution they had been pleased to pass.

The above speech of Prentiss was his Parthian arrow as he retired and closed his official career. In reviewing his brief but brilliant course one cannot but be struck by its tone of lofty integrity. Jealous of the honor of the House, he attacked the member from Ohio for violating what he conceived to be the privileges of the House. He acted in the same manner in a similar case in the Mississippi Legislature. Jealous of the honor of the nation, he stood by the boundary-line of his native State. Glorifying in the history of the United States navy, he resented the indignity with which he thought it tarnished by the acts of the commodore. Jealous of the integrity of the nation, he brought all his power to bear upon a restoration of the administration to what he believed to be the principles of honesty.'

For reasons deemed satisfactory to himself he voted against the duelling law proposed, springing out of the unfortunate duel between Cilley and Graves. Losing, as he did, three months of the first session, in consequence of his rejection, he could not be on any important committee, and therefore his services were lost in the committee-room.

He always took with him at this time as a body-servant his favorite boy, Colonel Burr, and while the master was thundering his eloquence in the *marble* halls of the Capitol the colonel was enjoying himself outside on the avenue in a different game of *marbles*, and one which did not require *quite* as much intellectual effort. The colonel went with his master to the *ultima thule* of the United States, where he was free *de jure*, as he had been *de facto*. He once told his master that some people had asked him if he did not want to be free, and that his reply was he was "free now," and they told him he was a "fool," and "I tole 'em dey was fools and not me."

During his sojourn at Washington he sometimes fell into the hands of *harpies*, who, taking advantage of his recklessness, preyed upon him; the parasites who fleeced while they flattered him. It has already been explained that he indulged in play for relaxation, his physical infirmity debarring him, as he thought, from the purer joys of female society. Wise tells how in one instance, on a certain convivial occasion, he succeeded in overcoming his diffidence, and at last induced him to be introduced to a lady, but *it so happened by an unfortunate contretemps* that just as he was introduced the lady rose to join in the dance, her dress became entangled in his cane, and he retired as soon as it was disentangled, overwhelmed in confusion. As we have said before, let us remember how few were his means of relaxation and let fall the mantle of charity over his errors, while we give the meed of praise to his lofty public course as our Representative.

Such was his delicate sense of honor that he refused to *receive the pay of mileage* for the contested term. *His public life in the regular political army*, so to speak, closed with this Congress, but in the grand army of volunteers in the future political battles of the age we shall hereafter see that he did noble service.

CHAPTER XIV.

WE have seen that Prentiss arrived in Washington on the 17th of December, 1838. Just two days before this, on the 15th, there occurred in the city of Louisville, Kentucky, an unexpected and fearful tragedy, involving the fate of his friend, Judge Edward C. Wilkinson. This gentleman was a man most attractive in mind and bearing, eminently handsome in person, and highly educated. He was noted for his dignity and mildness of manner, but at the same time he had the courage of a lion. Accompanied by his brother, Dr. Benjamin R. Wilkinson, and his ward, John Murdaugh, the judge had reached the city in December, *en route* to be married to Miss Crozier, the niece of General Thomas Hinds, one of the most distinguished men of Mississippi. The party stopped at the "Galt House" and were tarrying in the city for the purpose of preparing the "wedding garments."

Dr. Benjamin Wilkinson had ordered a suit of clothes, vest, pants, and overcoat, from a respectable merchant tailor named John W. Redding. On Saturday, the 15th of December, the doctor went to Mr. Redding's alone to get the clothes. He tried them on, observing that the overcoat was loose, but he took the suit and left a hundred-dollar Mississippi Bank bill, requesting Redding to hold on to it for a week or two, as the discount on it might then be less. About three or four o'clock in the afternoon of the same day he returned to Redding's store, accompanied by the judge and Mr. Murdaugh. The fit of the overcoat became the subject of discussion, the judge saying that it was a bad fit and unfashionable. The doctor offered to pay for the vest and pants and return the overcoat, but the judge advised against this course, as they, too, might not fit. Redding, probably not knowing the relationship between the doctor and the judge, took exception at what he thought an unjustifiable interference, saying

that it was none of his business. This led to high words, and the judge took exceptions to Redding's language, stating that he did not come there to be insulted. The judge then seized a poker. A scuffle ensued; the judge at first was on top, but Redding turned him and was dragging him to the door. The doctor interfered, as some thought, to pull him off, while some said he raised his hand with a knife. His hand was seized. One witness said he heard Murdaugh call out "Kill him!" while another said that he said "Part them; don't let him kill him!" The parties separated on the pavement in front of Redding's store. Redding seized a brick-bat, saying, "Lay your d—d knives down and I can whip all three of you." The judge, who had walked across the street, returned and carried one (Murdaugh) of the party away with him.

The fight brought several parties to Redding's store, and he told his grievance. Some advised him to take the law, and others advised summary vengeance. Redding went to the mayor's office to get a warrant for the arrest of the parties, but was told that it was necessary to have their names. On his way to the "Galt House" to ascertain these he met his brother-in-law, John Rothwell, and told him of the affair. Rothwell was a powerful man; he accompanied Redding. They reached the hotel a short while before supper and obtained from Mr. Everett, the clerk, the names of the three; but instead of leaving then they *lingered*. In the mean time a *crowd had collected*. While Redding was thus *lingering*, awaiting, as he said, the marshal, Turner, Judge Wilkinson came into the bar-room to take a glass of water. He commenced walking up and down the room. Redding crossed his path, and with his back to the bar accosted him, as he says in his testimony, with, "I think you're the gentleman that struck me with the poker in my own house to-day?" Wilkinson replied that he was, and added, "I shall not quarrel with a man of your profession, but if you interfere with me or lay a hand on me, I shall kill you." Redding, in his testimony, continues: "As he said this he put his hand behind him, as I thought in his coat-pocket, for some weapon." Redding then called the judge a coward, and offered to whip all three if they would come out and lay aside their

weapons. Wilkinson meanwhile kept walking backward and forward, Redding telling him all the while what he thought of him. This was a tirade of abuse. Judge Wilkinson now walked out of the bar-room. An expression was heard, "The coward, he has run." The judge was absent but a little while; when he returned his brother and Murdaugh were just behind him. Redding told Murdaugh that he was the man who drew a knife on him. Murdaugh replied in substance, "If you said I drew a *bowie*-knife on you it was a d—d lie, and whoever said it was a d—d liar!" As he said this Redding asserts that he threw up his hand with a drawn knife.

Just then two new actors appeared upon the scene. One Alexander Meeks stepped up, remarking, "You're the d—d little rascal that did it," and struck at Murdaugh with a whip or cane. About the same time John Rothwell also struck him. Murdaugh's right arm was caught just as he was about to strike. He seized his knife with his left hand, and with this hand struck Meeks a mortal blow, and thus extricated himself.

In the mean time one Holmes, another stranger, had attacked Dr. Wilkinson and was beating him unmercifully. Judge Wilkinson rushed to the rescue of Murdaugh, and with, it is supposed, his *bowie*-knife struck Rothwell. Still another man, Marshall Halbert, was engaged in the fray.

The names of the men attacking the Mississippians were Redding, Rothwell, Meeks, Oldham, Bill Johnson, Halbert, and Holmes. Rothwell had a sword-cane, Meeks a cowhide and other weapons, and Oldham fired with a pistol at the Mississippians as they retreated from the bar-room.

In the brief space of fifteen or twenty minutes Meeks lay dead upon the floor, Rothwell mortally wounded with wounds of two characters, the one made by a large blade, the other by a slender instrument. Judge Wilkinson, too, was wounded apparently by a slender instrument, the wound ranging down from the shoulder-blade towards the spine. Murdaugh was badly wounded in the head, and his hat punctured with a sharp instrument. Dr. Wilkinson was greatly bruised in the face, his eyes discolored and swelled till nearly closed.

The excitement was, of course, intense; a large crowd assem-

bled at the "Galt House." The Messrs. Wilkinson and Murdaugh, as much for their protection as for the ends of justice, were privately conveyed to the jail. On Sunday Rothwell died; being very popular, his funeral was largely attended. On Monday the prisoners were brought before the police court, but on account of absence of witnesses the examination was postponed till Wednesday. The indignation of the populace in the mean time began to subside, inasmuch as the facts connected with the tragedy became more developed. The prisoners were brought before the police court at the appointed time, and, after a thorough examination into the facts, the parties were admitted to bail, to appear at the Jefferson County Circuit Court.

The papers of the day teemed with grossly-exaggerated accounts against the accused. Conceiving that they could not have a fair and impartial trial in Louisville on account of local prejudice against them, they presented their petition to the Legislature on the 19th of January for a change of venue. This petition was endorsed by the opinion of eleven of the most prominent citizens,—Tyler, Everett, Throckmorton, Riddle, Clendenning, Gray, Ward, Hite, Hill, Cochrane, and Nathaniel Wolfe. Accordingly an act was passed on the 28th of January changing the venue to the Circuit Court to be held on the 4th of March, 1839, before Judge John L. Bridges, at Harrodsburg, Mercer County, about seventy or eighty miles from Louisville.

Let us now return to Prentiss, who was then in Washington. As soon as he heard of the difficulty of his friend, Judge Wilkinson, he immediately tendered his services; this was an immense relief to Wilkinson, for he not only had unbounded confidence in Prentiss's ability, but implicit faith in his word. He therefore put himself to no further trouble about other counsel.

There is a delicate tinge of romance connected with this affair of Wilkinson's, which was most touchingly alluded to in the speeches for the defence. He was on his way to be married. On Saturday he was brimful of blissful anticipations, and before midnight he was within the walls of a dungeon; his mental suffering increased by the melancholy sighing of the wind, as it mingled with the howling of an excited populace outside. In

the brief space of a few hours his circumstances were so utterly and overwhelmingly revolutionized that he felt it his duty, in announcing this to his intended bride, to release her from her engagement. I have a vague impression in my mind that some of the family informed me that her reply to Wilkinson was just such an one as would be expected from a true woman. She wrote him a letter full of devotion, and closed it with those saddest and sweetest lines ever penned by the poet Moore, in which he expresses the feelings of the daughter of Curran for the doomed Robert Emmet :

“Come rest in this bosom, my own stricken deer,
Though the herd has fled from thee, thy home is still here.
Here still is the smile that no cloud can o’ercast,
And the heart and the hand all thine own to the last.
Thou hast called me thy angel in moments of bliss,
Still thy angel I’ll be mid the horrors of this ;
Through the furnace unshrinking thy steps I’ll pursue,
And shield thee, and save thee, or perish there too.
Oh, what was love made for if ’tis not the same
Through joy and through sorrow, through glory and shame?
I know not, I ask not, if guilt’s in that heart,
I but know that I love thee whatever thou art.”

Wilkinson went to see her, and with true manliness urged that the wedding be postponed till after the final trial ; she, on the other hand, with true womanly devotion, insisted that the ceremony take place without delay. They were, therefore, married, and he brought his bride to his Mississippi home, there to await the coming event.

The circumstances I am now about to relate were given me by my dear friend, Robert Cox, of Jefferson County (over whose remains the sod is even now very fresh) ; he heard them from Judge Wilkinson himself, and they are, substantially, as follows : Wilkinson, relying upon Prentiss’s promise, had gone to Louisville three or four days before the day appointed for the trial to meet him ; day after day passed and Prentiss came not. (It will be remembered that just at this time he was thundering his anathemas upon the head of the Speaker on account of his gross partiality.) Great was Wilkinson’s anxiety, the more especially as Ben Hardin, the Achilles of the Kentucky bar, had been

engaged to prosecute. He feared Hardin's power over a Kentucky jury. The agonizing question would arise, Could it be possible that his life-long friend was now to trifle with his safety? He could not sleep as the precious hours passed by, and the time, that could not be put off, drew nearer and nearer. Such was his state of feeling when, at about nine o'clock of the night before the morning on which it was absolutely necessary he should start for Harrodsburg, a gentleman came in and reported that a boat was coming down the river, and that either a *fight* or a *frolic* was taking place aboard of her.

A crowd met the boat as she landed, in order to discover what was the matter. They soon learned that there were aboard a number of members of Congress, "*Quorum pars Prentiss fuit*," on their homeward-bound journey. These disembarked and adjourned to the "Galt House," where their revelry continued till the "wee sma' hours." All this while Wilkinson was in an agony of suspense, for he had sent for Prentiss, who replied that he was engaged. It is needless to say that there was not much sleep that night for Wilkinson. The next morning he arose very early and met Prentiss, looking perfectly fresh and buoyant. They passed the usual compliments of a hearty greeting, but, to his (Wilkinson's) surprise, Prentiss made not the slightest allusion to the great tragedy. After they had breakfasted they, in company with Judge Chambers, got into a hack and started for Harrodsburg. When they had gotten a little way out from Louisville, Prentiss settled himself back in his seat and gravely said, "Now, Wilkinson, tell us all about the affair."

Wilkinson, himself a good lawyer, and accustomed to sift and sum up evidences, told the story from beginning to end, giving the names of the witnesses and what they had testified to before the examining court, etc. Every now and then Prentiss would ask a question in order to bring out some more important fact, and thus, said Wilkinson, "*for the first time* Prentiss learned the particulars of the case upon which hung suspended my life and liberty."

A very ludicrous incident occurred at the tavern where they stayed all night. The landlady of the house was, to say the least, a queer woman. As she sat at the head of the table she

began with Wilkinson,—“*Stranger*, what will you have, tea or coffee?” Turning to Judge Chambers, she continued, “*Individual*, what will you have, tea or coffee?” Eying Prentiss askance, “*Little short man*, what will you have, tea or coffee?” This caused a burst of laughter, and no one enjoyed the joke more than Prentiss himself.

In the mean time, while these gentlemen were approaching Harrodsburg, the court had assembled, Judge Bridges presiding. The counsel for the prosecution applied for time to collect their witnesses. This was taken under advisement till the next day, the 5th. Upon resuming the bench on the 5th, the court set the case for the next Monday. The intermediate time was spent both by prosecution and defence in gathering up their witnesses, and therefore when the court met on Monday, the 11th of March, both parties were anxious for the trial, but it was intimated, however, that Judge Wilkinson was not present, and would not be in town before eleven o'clock, inasmuch as information had been received that he had been compelled to await a few hours in Louisville for an important witness. The court suggested a recess until that hour. Judge Rowan here begged leave to withdraw a motion as to the order in which the counsel were to speak. That matter having been settled by the counsel, the court assented to this. Judge Rowan then announced that the prosecuting attorney would open, Colonel Robertson would follow for defence, Mr. Hardin would follow for the State, and he, Judge Rowan, follow for defence, and the prosecuting attorney conclude.

Just before the recess was declared, Judge Rowan intimated that on Judge Wilkinson's arrival, should any contingency arise rendering it important to the defence to make any change or addition of counsel in the order of speaking, he wished to make a reservation in favor of such change or addition. This was understood to allude to Mr. Prentiss, as it was probable he had been employed and would arrive with Judge Wilkinson. Hardin said he made no concessions on that point. The court intimated that this was a matter of arrangement between counsel, and so the matter dropped.

At twelve o'clock Judge Wilkinson arrived in a hack, accom-

panied by Mr. Prentiss and Judge Chambers. They drove to Dr. Graham's, where Wilkinson's friends were stopping. When Hardin saw Prentiss alight from the hack he tersely remarked, "I know now what I've got to meet."

The court met at half-past one o'clock. Judge Wilkinson, Dr. Wilkinson, and Mr. Murdaugh were recognized to save their bail. After the sheriff had called the jury panel the court asked the defence "whether they were ready to proceed."

Judge Wilkinson stood up and said, "I wish, sir, S. S. Prentiss to be called as one of my counsel."

Mr. Prentiss was called but did not answer.

"Do you know, Mr. Wilkinson, where the gentleman now is?" observed the court.

"I do not," replied Judge Wilkinson, "but a person has gone for him."

After waiting for about a half-hour for Mr. Prentiss it was suggested to call the jury. This was done. When it was through, and before the reading of the indictments, Judge Rowan arose and asked permission to introduce Mr. Prentiss, of Mississippi, a practising lawyer, at the head of the bar in his own State, who now asked leave to practise in this court for the purpose of aiding in the present defence. The court assented on Mr. Rowan's statement, and Prentiss was sworn in. The names of the jurors were Benjamin Alsop, R. M. Davis, Buckner Miller, Robert Alexander, John Bowman, John Burton, Elijah Gabbott, John Bohan, John Adair, Elincazer McGoffin, Charles Humphries, and Jacob Vanarsdall.

The clerk read the two indictments, couched in the usual technical language, the one charging the prisoners with the murder of John Rothwell, the other charging them with the murder of Alexander Meeks. The State then began the examination of witnesses for the prosecution, beginning with Redding, and examining sixteen others *seriatim* on the facts. The defendants examined seventeen as to facts, and four to prove their peaceable character and reputation. The testimony was closed on the third day, and the court took a recess for dinner.

By one o'clock the court-house became crowded to excess, not less than a thousand well-dressed, respectable persons being

present. The gallery was appropriated to the ladies, about two hundred of whom were present, three-fourths of these were remarkable for their beauty. On Judge Bridges taking the bench, Judge Rowan suggested that, in view of the immense concourse who wished to hear the argument, it might be advisable to adjourn to an adjacent church. The court, for very obvious reasons, declined to entertain the proposition, but, with a view to accommodate the ladies, assigned the galleries to their exclusive use.

The prosecuting attorney, Mr. Bullock, opened the argument on behalf of the State, and proceeded to make a clear statement of the law bearing on the case, with an application as to the facts. He was followed by Colonel Robertson, who spoke for an hour for the defence. In a few minutes after Colonel Robertson closed Mr. Prentiss arose, and addressed the jury substantially as follows :

" May it please your Honor and you, gentlemen of the jury :—I rise to address you with mingled feelings of regret and pleasure. I regret the occasion which has caused me thus accidentally and unexpectedly to appear before you, and has compelled you to abandon for a time the peaceful and quiet avocations of private life for the purpose of performing the most important and solemn duty which in the relations of civilized society devolves upon the citizen. I *regret* to behold a valued and cherished friend passing through one of the most terrible ordeals ever invented to try the human feelings or test the human character. An ordeal through which I do not doubt he will pass triumphantly and honorably, without leaving one blot or stain upon the fair fame that has been so long his rightful portion, but through which he cannot pass unscathed in his sensibilities and feelings. The lightning scar will remain upon his heart, and public justice herself cannot even, though by acclamation through your mouths she proclaim his innocence, ever heal the wounds inflicted by this fierce and unrelenting prosecution, urged on as it has been by the demons of *revenge* and *avarice*. Most of all do I regret the public excitement which has prevailed in relation to these defendants, the uncharitable prejudgment which has forestalled the action of the law, the *inhospitable prejudice* which has been aroused against them because they are strangers, and the attempt which has been made and is still being made to mingle with the pure stream of justice the foul, bitter, and turbid torrent of private vengeance. But I am also gratified ; gratified that the persecution under which my friends have labored is about to cease, that their characters, as well as public justice, will be vindicated, that the murky cloud which has enveloped them

will soon be dissipated, and the voice of slander and prejudice sink into silence before the *clear, stern*, thoughtful response of this *solemn tribunal*.

"The defendants are particularly fortunate in being tried before such a tribunal. The bearing and character of his Honor, who presides with so much dignity, give ample assurance that the law will be correctly and impartially laid down; and I trust I may be permitted to remark that I have never seen a jury in whose hands I would sooner entrust the cause of my clients, while at the same time you will do full justice to the Commonwealth. I come before you an utter stranger, and yet I feel not as a stranger toward you. I have watched during the course of the examination the various emotions which the evidence was so well calculated to arouse in your bosoms, both as men and as *Kentuckians*; and when I beheld the flush of honorable shame upon your cheeks, the sparkle of indignation in your eyes, or the curl of scorn upon your lips as the foul *conspiracy* was developed, I felt that years could not make us better acquainted. I saw upon your faces the mystic sign which constitutes the bond of union among honorable and honest men, and I knew that I was about to address those whose feelings would respond to my own. I rejoiced that my clients, in the fullest sense of the term, were to be tried by a *jury of their peers*. Gentlemen of the jury, this is a case of no ordinary character and possesses no ordinary interest. Three of the most respectable citizens of the State of Mississippi stand before you indicted for the crime of murder, the highest offence known to the laws of the land. The crime is charged to have been committed not in your own county but in the city of Louisville, and there the indictment was found. The defendants during the past winter applied to the Legislature for a change of venue, and elected your county as the place at which they would prefer to have the question of their guilt or innocence investigated. This course at first blush may be calculated to raise in your minds some unfavorable impressions. You may naturally inquire, Why was it taken? Why did they not await the trial in the county in which the offence was charged to have been committed? In fine, why they came here? I feel it my duty before entering into the merits of this case to answer these questions and to obviate such impressions as I have alluded to, which without explanation might very naturally exist. In doing so it will be necessary to advert briefly to the history of this case. My clients have come before you for justice; they have *fled to you even as to the horns of the altar, for protection*.

"It is not unknown to you that upon the occurrence of the events the character of which you are about to try great tumult and excitement prevailed in the city of Louisville. Passion and prejudice poured poison into the public ear. Popular feeling was roused into madness. It was with the utmost difficulty that the strong arm of the constituted authorities wrenched the victims from the hands of an infuriated mob. Even the thick walls of the prison hardly afforded protection to the accused. Crouched and shivering upon the cold floor of their gloomy dungeon,

they listened to the footsteps of the gathering crowds, and ever and anon the winter wind that played melancholy music through the rusty grates was drowned by the fierce howling of the human wolves who prowled and bayed around their place of refuge, greedy and thirsting for blood. Every breeze that swept over the city bore away slander and falsehood upon its wings. Even the public press, though I doubt not unwittingly, joined in the work of injustice. The misrepresentations of the prosecutor and his friends became the public history of the transaction, and from one end of the Union to the other these defendants were held up to public gaze and public execration as foul, *unmanly murderers*, and that, too, before any judicial investigation whatever had occurred, or any opportunity been afforded them for saying a single word in their defence.

"I recollect well when I received the first information of the affair. It was in some respectable newspaper which professed to give a full account of the transaction, and set forth with horrible minuteness a column of disgusting particulars. *Instantly, openly, and unhesitatingly* I pronounced the paragraph *false* and *trampled it under my heels*. When rumor seemed to endorse and sustain the assertions *I laughed her to scorn*. I had known Judge Wilkinson long and well. I knew him to be *incapable* of the acts *attributed* to him or of the crime with which he was charged. Not an *instant* did I falter or waver in my belief. I *hurled back* the charge as readily as though it had been made against myself. What! a man whom I had known for years as the very soul of honor and integrity to be guilty suddenly and without provocation of a base and cowardly assassination! One whose whole course of life had been governed and shaped by the highest moral principle, whose feelings were familiar to me, whose breast ever had a window in it for my inspection and yet had never exhibited a cowardly thought or a dishonorable sentiment,—that such a one and at such an era in his life, too, should have *leaped at a single bound the wide gulf which separates vice from virtue* and have plunged at once into the depths of crime and infamy! Why, it was too monstrous for credence; it was too gross for credulity itself. Had I believed it I should have lost all confidence in my kind. I would no longer have trusted myself in society, where so slender a barrier divided good from evil. I should have become a man-hater, and, Timon-like, gone forth in the desert that I might rail with freedom against my race. You may judge of my gratification in finding the real state of the facts of the case so responsive to my opinion.

"I am told, gentlemen, that during this popular excitement there were some whose standing and character might have authorized a different course of conduct, who seemed to think it not amiss to exert their talents and influence in aggravating instead of assuaging the violent passions of the multitude. I am told that when the examination took place before the magistrate every bad passion, every ungenerous prejudice, was appealed to. The argument was addressed not to the court but to the populace. It was said that the unfortunate individuals who fell in the *affray* were

mechanics, while the defendants were *Mississippians*, *aristocratic slaveholders*, who looked upon a poor man as no better than a negro. They were called *gentlemen* in derision and contempt. Every instance of violence which has occurred in Mississippi for years past was brought up and arrayed with malignant pleasure, and these defendants made answerable for all the crimes which, however much to be regretted, are so common in a new and rapidly-populating country. It was this course of conduct and this state of feeling which induced the change of *venue*. I have made these remarks because I fear a similar spirit still actuates that portion of this prosecution, which is conducted not by the State but by private individuals.

"I am not aware that the Commonwealth of Kentucky is incapable of vindicating her violated laws or unwilling to prosecute and punish the perpetrators of crime. The district attorney has given ample proof that she is provided with officers fully capable of asserting her rights and protecting her citizens, and, with the exception of one or two remarks which fell from him inadvertently, I accord to his observations my most unqualified approbation. He has done equal justice to the State and to the defendants; he has acquitted himself ably, honorably, and impartially. But, gentlemen, though the State is satisfied the prosecutor is not. Your laws have spoken through their constituted agents, now private vengeance and vindictive malice will claim to be heard. One of the ablest lawyers of your country—ay, of any country—has been employed to conduct the *private* part of this prosecution; employed not by the Commonwealth but by the *real murderer*,—him whose *forehead* I intend before I am done to brand with the mark of *Cain*, that in after-life all may know and all may shun him. The money of the prosecutor has purchased the talent of the advocate, and the contract is that *blood* shall be exchanged for *gold*. The learned and distinguished gentleman who sits before me, and to whom I allude, may well excite the apprehension of the most innocent. If rumor speaks truth he has character sufficient even though without ability, and ability sufficient even without character, to crush the victims of his *purchased* wrath. I said with the exception of one or two remarks I was pleased with the manly and honorable course of the Commonwealth's attorney. Those remarks seem to be more in the spirit of his colleague than in accordance with his own feelings. I was sorry to hear him mention so pointedly and to dwell so long upon the fact that the defendants were *Mississippians*, as if that constituted an ingredient in their crime or furnished a proof of their guilt. If to be a *Mississippian* is an offence in my clients, I cannot defend them. I am myself *particeps criminis*. We are all guilty with malice aforethought. We have left our own bright and beautiful homes and sought that land the name of which seems to arouse in the minds of the opposing counsel only images of horror. Truly, the learned gentlemen are mistaken in us; we are no cannibals nor savages. I would that they would visit us and disabuse their minds of these unkind preju-

dices. They would find in that far country thousands of their own Kentuckians who have cast their lot by the monarch stream, in the enjoyment of whose rich gifts, though they forget not, they hardly regret the bright river (Ohio) upon whose banks they strayed in their childhood. No State has contributed more of her sons to Mississippi than Kentucky, nor do they suffer by being transplanted to that genial soil. Their native State may well be proud of them, as they ever are of her.

"But I do injustice to you and to her in dwelling upon this matter. Here, in the heart of Kentucky, my clients have sought and obtained an unprejudiced and impartial jury. You hold in your hands the balance of justice, and I ask and expect that you will not permit the prosecution to cast extraneous and improper weights into the scale against the lives of the defendants. You constitute the mirror whose office is to reflect in your verdict the law and the evidence which have been submitted to you. Let no foul breath dim its pure surface and cause it to render back a broken and distorted image. Through you now flows the stream of public justice. Let it not become turbid by the trampling of unholy feet. Let not the learned counsel who conducts the private part of this prosecution act the necromancer with you as he did with the populace of the city of Louisville when he raised a tempest which even his own wizard hand could not have controlled. Well may he exclaim in reference to that act, like the foul spirit in *Manfred*,—

‘I am the rider of the wind,
The stirrer of the storm;
The hurricane I left behind
Is yet with lightning-warm.’

Ay, so it is still with lightning warm. But you, gentlemen, will perform the humane office of conductor and convey this electric fluid safely to the earth.

"You will excuse these prefatory observations; they are instigated by no doubt of you, but by a sense of duty to the defendants. I wish to obviate in advance the attempts which I know will be made to excite against them improper and ungenerous prejudices. You have seen in the examination of one of the witnesses (Mr. Graham) this very day a specimen of the kind of feeling which has existed elsewhere, and which I so earnestly deprecate. So enraged was he because the defendants had obtained an impartial jury that he wished the whole Legislature in that place not to be mentioned to ears polite, and that he might be the fireman, and all on account of the passage of the law changing the venue. Now though I doubt much whether this worthy gentleman will be gratified in his benevolent wishes in relation to the final destiny of the Senate and Representatives of this good Commonwealth, yet I cannot but believe that his desires in regard to himself will be accomplished, and his ambitious aspirations fully realized in the enjoyment of that singular office which he so warmly covets.

"Gentlemen of the jury, I ask for these defendants no sympathy, nor do they wish it. I ask for them only justice, such justice alone as you would demand if you occupied their situation and they yours. They scorn to solicit that from your pity which they challenge from your sense of right. I should ill perform toward them the double duty which I have assumed, both of *friend* and advocate, did I treat their participation in this unfortunate transaction otherwise than candidly and fairly, did I attempt to avoid responsibility by exciting commiseration. I know that sooner than permit deception and concealment in relation to their conduct they would bare their necks to the loathsome fingers of the hangman, for to them the infamous cord has less of terror than falsehood and self-degradation.

"That these defendants took away the lives of the two individuals whose deaths are charged in the indictment they do not deny; but they assert that they did so not voluntarily or maliciously, that they committed the act from stern, imperative necessity, from the promptings of the common instincts of nature, by virtue of the broad and universal law of self-defence, and they deny that they have violated thereby the ordinances either of God or man. *They admit the act and justify it.*

"The ground of their defence is simple, and I will state it so that it cannot be misapprehended. They assert, and I shall attempt from the evidence submitted to convince you, that a conspiracy was formed by Mr. Redding, the prosecutor, and various other persons, among whom were the deceased, to inflict personal violence upon them; that the conspirators by preconcerted agreement assembled at the 'Galt House,' in the city of Louisville, and attempted to accomplish their object; and that in the necessary, proper, and legal defence of their lives and persons from such attempt the defendants caused the death of two of the conspirators. After discussing this proposition I shall submit another, which is that even though a conspiracy on the part of the deceased and their companions to inflict personal violence and bodily injury upon the defendants did not exist, yet the defendants had *reasonable* ground to suppose the existence of such *conspiracy* and to apprehend great bodily harm therefrom, and that upon such reasonable apprehension they were justified in their action, upon the principle of self-defence, equally as if such conspiracy had in point of fact existed.

"The law applicable to these two propositions is simple, being in fact *nothing more than a transcript from the law of nature*. The principles regulating and governing the right of self-defence are substantially the same in the jurisprudence of all countries, at least all civilized ones. These principles have been read to you from the books by my learned friend, Colonel Robertson, and require no repetition.

"That a man has a right to defend himself from great bodily harm and to resist a conspiracy to inflict upon him personal violence, if there is reasonable danger, even to the death of the assailant, will not, I presume, be disputed. That *reasonable, well-grounded apprehension* arising from

the actions of others of immediate violence and injury is a good and legal excuse for defensive action proportionate to the apparent impending violence, and sufficient to prevent it, I take to be equally indisputable. By these plain rules and upon these simple principles let us proceed to test the guilt or innocence of the defendants.

First, then, as to the existence of the *conspiracy*. Before examining the direct evidence to this point you will naturally inquire, Was there any cause for this alleged *conspiracy*? Motive always precedes action. Was there any motive for it? If we establish the existence of the seed we feel less hesitation in being convinced of the production of the plant. Was there, then, any motive on the part of Mr. Redding and his friends for forming a combination to inflict personal violence upon the defendants? In answering this question it will be necessary to take notice of the evidence which has been given in relation to the events that transpired at the shop of Mr. Redding at a period anterior to the transaction at the 'Galt House,' and which, *except for the clue they afford to the motive and to the subsequent action of the parties, would have no bearing upon the case before you*. You will take heed to remember that whatever of impropriety you may consider as attaching to the conduct of Judge Wilkinson and his friends during this part of the affair must not be permitted to weigh in your verdict, *inasmuch as that conduct is the subject of another indictment* which is still pending in this court.

"Judge Wilkinson visited Louisville for the purpose of making preparations necessary for the celebration of his nuptials. The other two defendants had also their preparations to make, inasmuch as they were to act as his friends upon this interesting occasion. Dr. Wilkinson, a brother of the judge, had ordered a suit of clothes of Mr. Redding, who follows the very respectable occupation of a tailor, occasionally relieved and interspersed by the more agreeable pursuits of coffee-house keeper. On the day but one preceding that fixed for the marriage ceremonies the doctor, in company with his brother and friend Murdaugh, proceeded to the shop of Mr. Redding for the purpose of obtaining the wedding garments. Upon trying on the coat it was found ill made and of a most ungraceful fit; it hung loosely about his shoulders, and excited by its awkward construction the criticism and animadversion of his friends. Even the artificer did not presume to defend the work of his own hands, but simply contended that he could reorganize the garment and compel it by his amending skill into fair and just proportions. From the evidence I presume no one will doubt that it was a shocking bad coat. Now though under ordinary circumstances the aptitude of a garment is not a matter of very vital importance in the economy of life, and ought not to become the subject of controversy, yet all will admit that there are occasions upon which a gentleman may pardonably indulge a somewhat fastidious taste in relation to this matter. Dr. Wilkinson will certainly be excused, considering the attitude in which he stood, for desiring a well-made and fashionable coat.

I confess I am not a very good judge in concerns of this sort. I have had no experience on the subject, and my investigations in relation to it have been exceedingly limited. Under favor, however, and with due deference to the better judgment of the learned counsel on the other side, I give it as my decided opinion that a gentleman who is about to participate in a marriage ceremony is justified in refusing to wear a coat which by its loose construction and superabundant material indicates, as in the case before us, a manifest want of good *husbandry*. Suffice it to say Dr. Wilkinson and his friends did object to the garment, and Mr. Redding, after some altercation, consented to retain it. The pantaloons, which constituted a part of the suit, had been sent to the hotel, and the doctor was in the act of paying for them out of a hundred-dollar bill, which he had previously deposited with Mr. Redding, when the judge remarked that he had better not pay for the pantaloons until he had first tried them on, as they might be found to fit no better than the coat. Mr. Redding, according to his own evidence, responded that they had 'said already too much about this matter,' to which the judge, he says, replied, 'that he did not come there to be insulted,' and immediately seized the poker and struck him. Upon which the doctor and Mr. Murdaugh also fell on him with their knives drawn. Redding then seized his shears, but did not succeed in *cabbaging* therewith any part of his assailants. He was successful, however, in dragging the judge into the street, where, after a slight scuffle, which resulted in no personal injury to any of the parties, they were separated. After the separation, Redding *offered, if they would lay down their knives, to fight them all*. This kind proposition the *defendants declined*. But the doctor returned into the shop, obtained his hundred-dollar note, and then the defendants retired from the place.

"Such, in substance, is Mr. Redding's own account of the transaction at his shop. The witness Weaver also proves the altercation which occurred in relation to the fitting of the coat, and the scuffle which ensued in consequence. He, however, avers that Redding, in a very insulting manner, told the judge that 'he was more meddlesome than the other,' and that 'he was too d—d meddlesome,' or words to that effect, which insulting language so excited the judge that he seized the poker and commenced the assault. The other witness, Craig, Redding's journeyman, testifies in substance the same as Redding as to what passed in the shop, corroborates his account of the altercation about the coat, and says that he considered Dr. Wilkinson *not as assisting in the affray*, but as attempting to separate the parties. Some of the witnesses think that the doctor attempted in the street to stab Redding, as he was getting the advantage of his brother. The evidence on this point, as well as that in regard to the conduct of Murdaugh, is somewhat contradictory. In the view, however, which I have taken of the case, the discrepancy is of little importance.

"It is clearly proven, take the evidence in any way, that Mr. Redding used insulting language toward Judge Wilkinson on account of the

judge's expression of an opinion in relation to the fit of his brother's coat. What was the exact language used it is difficult to ascertain. There were six persons in the room when the quarrel ensued: on the one side the prosecutor (Redding), his foreman (Craig), and the boy (Weaver); on the other, the three defendants. All the evidence on this point has been derived from the first party, and ought to be taken with *many grains of allowance*. The prosecutor has given you his version of the affair, but his cunning has prevented the defendants from giving you theirs. Dr. Wilkinson, who was discharged by the examining magistrate, has been included in the indictment, one would judge, for the purpose of excluding his testimony. No one can doubt that the conduct of Judge Wilkinson, however reprehensible, resulted from the abusive language and insulting demeanor of Mr. Redding. The happy faculty with which he indulged on a subsequent occasion in the use of opprobrious epithets gives good reason to suppose that his remarks on the present were not very guarded. The expression deposed to by Weaver is, I presume, but a sample. 'You are too d—d meddlesome' was the observation, accompanied, no doubt, by the overbearing and bullying manner which illustrated his conduct afterwards, which smacked more of his *spiritual* pursuit as the Gany-mede of a coffee-house than of his gentle calling of the *knight of the shears and thimble*. He certainly did on this occasion 'sink the tailor,' for tailors are proverbially polite and gentlemanly in their deportment.

"I do not wish to be considered as justifying Judge Wilkinson and his friends in taking notice of the petulant and insulting conduct of Redding. I think they would have better consulted their character and feelings by treating him with contempt. I will go further and candidly admit that I consider their course reprehensible; that it resulted from passion and sudden excitement, and not from deliberate determination. They were themselves convinced of this in a moment, and left the ground ashamed, as they still are, of their participation in the matter, Judge Wilkinson rebuking and leading away his young and more ardent friend, Murdaugh, who seemed to indicate some disposition to accept the boastful challenge of Mr. Redding, 'That he could, if they would lay down their knives, whip them all three.' From all the evidence it is perfectly clear that in the altercation no personal injury resulted to any of the parties; that the defendants *retired voluntarily* from the quarrel, while Redding retained the field, and with boastful taunts and insulting outcries invited a renewal of the fight.

"The Mississippians were manifestly satisfied. Not so Mr. Redding; he was 'full of wrath and cabbage,' boiling over with violence, and breathing defiance and vengeance against the retreating foe. He, doubtless, retired to his coffee-house, and attempted to soothe his wounded feelings with some of the delightful beverages which it was occasionally his profitable province to dispense to others. Here his friends gathered around him; he recounted to them his manifold grievances; he grew warm in the

recital ; the two white-handled pocket-knives, which had been drawn but not used in the affray, danced before his distempered imagination in the shape of trenchant, death-dealing blades. These little instruments of ordinary and general use became at once 'bowie-knives' in buckram. He believed, no doubt, and made his friends believe, that he was an injured man, and that some satisfaction was due to his insulted honor.

"I have presented this part of the case to you simply for the purpose of enabling you to judge of the subsequent action of the parties and to indicate on which side a desire for vengeance and a combination to obtain it were most likely to originate. Upon the conclusion of the first affray which party would you have suspected of a disposition to renew it? Where could lie the motive on the part of Judge Wilkinson and his friends for additional violence? But who that is acquainted with the workings of human nature or the indications of human feeling will hesitate a moment in believing that revenge lurked in the bosom of Redding and sought only a safe opportunity for development? His conduct indicated a state of mind precisely fitted for the formation of a conspiracy.

"Having laid the foundation, I will now proceed to the erection of the superstructure. I will show, first by the direct and then by the circumstantial proofs, the existence of this foul and cowardly conspiracy. I will, however, here remark that I doubt not the misrepresentations and falsehoods of Mr. Redding in relation to the transaction induced several of the persons implicated to join the combination who with a correct knowledge of the facts would never have participated in the affair.

"First, then, as to the direct and positive evidence. Mr. Jackson says that immediately after the first affray he was passing Mr. Redding's when his attention was attracted by loud talking in the store, which induced him to enter, where he found Redding, Johnson, and Meeks. Johnson was expressing his opinion as to the course which should be pursued toward the Mississippians for their conduct, and said they 'ought to go to the "Galt House" and flog them.' 'Jack,' said he to Mr. Redding, 'just say the word, and I'll go for Bill Holmes and we'll give them hell,' at the same time boasting in his own peculiar phraseology 'that he was as much manhood as was ever wrapped up in so much hide.' Upon some hesitation being evinced at this proposition, Meeks said, 'Let's go anyhow, and we'll have a spree.' Mr. Jackson further deposes that some time after he was stopped by Johnson on the street, who told him he was going after Holmes, that Jack Redding was a good man, and that he (Jackson) ought to go with them to the 'Galt House' and see him righted. Jackson declined, alleging as an excuse his religious character and his desire to abstain from fighting ; whereupon Johnson exclaimed, in his ardent zeal for enlisting recruits, the 'church, hell, or heaven ought to be laid aside to right a friend.' Jackson says he understood it distinctly that it was a fight to which he was invited. Mr. Jackson's testimony is entitled to credit. He did not participate in the affair, and he can have

no inducement to speak falsely, for all his prejudices must naturally be enlisted on the side of the prosecution. His character is sustained by unexceptionable testimony, and has been impugned by no one except the salamander gentleman whose ambition seems to be to pursue in the next world that occupation which in this is principally monopolized by the descendants of Ham.

"The next direct evidence of the conspiracy is from Mr. Deering, whose character and testimony are both unimpeachable. He says he was passing down Market Street on the evening of the affray when he saw near the market-house Johnson in company with Holmes and others, and that they were discussing the subject of the quarrel between the Mississippians and Redding. This proves that Johnson was carrying into effect his proposition at Redding's store, viz., 'to go and get Bill Holmes and give them hell.' He had already found Bill Holmes, and we shall presently see made all his arrangements for 'giving them hell.' Mr. Deering says that soon after he met Mr. Johnson again, who inquired for Mr. Turner, the city marshal. Mr. Deering told him he would be too late with his officers, for the Mississippians would be gone, to which Johnson responded, '*there were enough gone there, that if they came down their hides wouldn't hold shucks.*' What did this mean if it did not indicate that the conspiracy had already been formed, and a portion of the conspirators assembled at the 'Galt House' for the purpose of preventing the game from escaping, and holding it at bay until the arrival of the rest of the hunters? They had gone, too, in sufficient numbers to authorize the classical boast of Mr. Johnson, 'that if they (meaning the Mississippians) came down their hides wouldn't hold shucks.'

"There is one more witness who is positive to the point. It is Mr. Harris. He swears clearly and unequivocally that Mr. Johnson met him on the evening of the affray, told him that the Mississippians had insulted Mr. Redding, and directly solicited him to go with Redding's friends to the 'Galt House' and see him righted. Mr. Harris says he refused to go. Whereupon Johnson exclaimed, 'Are you a friend of Redding's?' Thereby showing how strong was the feeling when even a mere refusal to participate in the violence was considered as a proof that the man refusing was no friend of Redding.

"Such, gentlemen, is the positive proof of the conspiracy. It consists of the evidence of three disinterested and honest witnesses, two of whom were directly and strongly solicited to participate in the matter. The testimony of each of these witnesses corroborates that of the other two. The facts sworn to have a natural order and connection. There is a verisimilitude about the whole story which would not belong to either portion by itself. The testimony is entitled to much more weight than if it had been the recital of a single witness, for if you believe one of the witnesses you must give credit to all. One of them swears that he heard Johnson in Redding's shop propose to Redding and his friends that he should get

Bill Holmes and 'give them hell.' The next witness saw Johnson on the street immediately after in company with Bill Holmes, who seems to have been the Achilles of these myrmidons, explaining to him how his dear Patroclus, Redding, had been insulted by the hectoring Mississippians, and urging him to vengeance. Again the same witness met Johnson, and was informed by him that a portion of his banditti had already taken possession of the passes of the 'Galt House,' and that if the Mississippians appeared, 'their hides wouldn't hold shucks.' The third witness swears to a positive solicitation from Johnson that he should join in the foray, and to the expression of his strong indignation by this *slayer of cattle* upon his refusal to do so.

"Johnson was the 'Malise' of the party, 'the messenger of blood and brand sent forth to summon the clansmen true.' Too well did he perform his duty; he collected his friends and conducted them like beasts to the slaughter, while he himself found the 'manhood' which, according to his boast, distended his hide rapidly descending to his heels. But enough for the present of this vaporing worthy; I shall pay my respects to him hereafter.

"I will now proceed, in pursuance of the plan I had prescribed, to show the existence of the conspiracy by the circumstantial evidence, which is, if possible, more irrefragable than the direct testimony, but yet most beautifully illustrates and confirms it. I will exhibit to you a chain of facts linked together by a natural and necessary connection which I defy even the strong arm of the opposing counsel to break. I will weave a cable upon whose unyielding strength the defence may safely rely to ride out the storm of this furious prosecution.

"Mr. Redding went to the 'Galt House' after the affair at his shop for the purpose, as he avows, of obtaining the names of the Mississippians, that he might procure process against them from the civil authorities. On his way, as he confesses, he armed himself with a deadly weapon, which, however, I am bound in justice to say, he never had the courage to use. A number of individuals accompanied and followed him, whose manner and strange appearance excited universal attention even in the bar-room of the most frequented hotel in the Western country. Their strange faces and strange action excited general apprehension. Nearly every witness to the unfortunate catastrophe has deposed that he was struck with the 'strange faces' congregated in the bar-room. The learned counsel on the other side has attempted to prove in the examination, and will, no doubt, insist in the argument, that that room is daily crowded with strangers from every part of the country; that the excellence of the fare and the urbanity of its proprietors invite to the 'Galt House' a large portion of the travelling public; and that consequently it is no wise remarkable that strange faces should be observed in the bar-room. Though I admit the gentleman's premises I deny his conclusion. That strangers should frequent the 'Galt House' is not wonderful, and for that very reason strange

faces under ordinary circumstances arouse neither remark nor attention. That the 'strange faces' of Mr. Redding's friends should have excited remark and scrutiny, not only from the inmates of the house but from strangers themselves, is truly wonderful, and can be accounted for only by admitting that there was something very peculiar in their conduct and appearance.

"They went there prepared for preconcerted action. Having a common object, a well-arranged plan, a glance or a motion sufficed to convey intelligence from one to the other. Tell-tale consciences spoke from each countenance. Their looks, unlike the mysterious sign of the mysterious brotherhood, gave up to the observers the very secret they thereby wished to conceal. There is a strange and subtle influence, a kind of mental sense, by which we acquire intimations of men's intentions even before they have ripened into word or action. It seems on such occasions as if information was conveyed to the mind by a sort of natural animal magnetism without the intervention of the senses. Thus in this case all the bystanders were impressed at once with the conviction that violence was intended by the strange men who had attracted their attention. These men, it is proven, were the intimate friends and companions of Redding. Most of them, though living in the city of Louisville, were not in the habit of going to the 'Galt House,' and yet by singular coincidence had all assembled there on that occasion. They were remarkably stout men, the very *élite* of the thews and muscles of Louisville, and many of them noted for their prowess in the vulgar broils of the city. *Why had they thus congregated on this occasion? Why their strange and suspicious demeanor?* I will show you why. It will not be necessary to await the actual fight to become fully conversant with their purpose. It found vent in various shapes, but chiefly bubbled out in unguarded remarks and almost involuntary expressions of the more garrulous of the party. I shall be compelled, even at the risk of being tedious, to glance at the evidence of a number of witnesses in showing you the circumstances at the 'Galt House' which conclusively indicate the existence of a conspiracy.

"Mr. Everett, one of the proprietors of the Galt, says he was admonished by his bar-keeper that a difficulty was about to arise, and he had better persuade Judge Wilkinson out of the bar-room. Accordingly he went in, took the judge away, and gave as a reason that he was alarmed, not because the faces were those of strangers, but because of something in their appearance which indicated concert and threatened violence.

"Mr. Trabue was waiting in the room for supper, and says he heard some one remark, 'If the Mississippians had not gone up-stairs they would have been badly treated,' in connection with which remark Redding was pointed out to him. This, it seems, was after the judge had retired at the solicitation of Mr. Everett. Now who were to have treated the Mississippians badly except Mr. Redding and his friends? Who else had any pretence for so doing? Can you doubt for a moment that the remark had

reference to Mr. Redding's party? It was probably made by one of them, but whether by one of them or a stranger, it equally indicated their violent determinations. Mr. Trabue also proves that after Judge Wilkinson retired Mr. Redding also retired, and when the judge returned into the bar-room Redding presently returned, followed, to use the language of Mr. Trabue, by 'a right smart crowd of his friends.' Now why did Redding thus go out and return with his gang at his heels? Why were his movements thus regulated by the motions of the judge? Wherefore was it that every one expected a difficulty?

"Mr. Redding, according to his own story, went to the 'Galt House' simply for the purpose of obtaining the names of the gentlemen who had insulted him. He had accomplished his ostensible object: he had obtained the names, and more than that, he had gratified his base appetite by abusing one of the gentlemen in the most indecent and disgusting manner. No rowdy who ever visited his coffee-house could have excelled him in this, to the vulgar mind, sweet mode of vengeance. He had even driven the judge from the room by the overwhelming torrent of his Billingsgate epithets. To use an expression suited to his comprehension and feelings, he remained 'cock of the walk.' Yet he was not satisfied. He retired and watched the return of the judge, and then, emboldened by his previous impunity, followed with his cut-throat band to complete the work of vengeance.

"But to proceed with the circumstantial evidence. Mr. Montgomery states that he was with Mr. Trabue at the 'Galt House.' When Redding came in after the names, and also when he came back just before the conflict, he heard him use very rough language, and also heard Halbert remark that there would be 'rough work with the Mississippians.' Now this corroborates the testimony of Mr. Trabue on the same point, who heard the remark but did not recollect who made it. This Marshal Halbert is the man who boasted, after the affair was over, that he had knocked down one of the Mississippians with a chair while his back was toward him, and recounted many other feats of daring to the astonishment of the listeners. I should judge him to be of the blood of honest Jack Falstaff, whose killing, as everybody knows, was by word of mouth, and whose deeds of desperate valor were so unfortunate as to find neither historian nor believer except himself. At all events, Halbert, by his own confession, was one of the conspirators, and I have no doubt performed his part in the fray as well as he knew how, and with much greater humanity than he pretends. In addition to the above remark of Halbert's, Mr. Montgomery states that he heard several persons say at the time when the defendants were not in the room that they would beat the Mississippians well.

"General Chambers, who lives opposite the 'Galt House,' and is in the daily habit of visiting it, says he went into the bar-room just before the affray, that he observed persons whom he was not in the habit of seeing

there, and that from their appearance and demeanor his suspicions were immediately aroused. I attach great weight to the testimony of General Chambers. His character for intelligence and observation needs no comment from me, and the fact that his suspicions were aroused must convince every one that cause for alarm existed.

"The next testimony to which I shall refer is that of Mr. Oliver. He says that he was acquainted with Mr. Meeks, and was taking a social glass with him on the evening of the affray, when Meeks started off, saying he must go to the 'Galt House' (which was on the opposite side of the street); that he was bound to have a fight that night, and, by G—d, he would have one. You will recollect that Meeks was one of the persons who collected around Redding immediately after the affair at the shop and seconded Johnson's proposition to get Bill Holmes and 'give them h—ll' by saying, 'They would go anyhow, and have a spree.' Can you doubt for a moment that the observation made by this unfortunate man to Oliver, as just recited, had reference to the previous arrangement with Johnson and others at Redding's shop? The remark of Meeks seems to me, taken in connection with his previous and subsequent conduct, almost conclusive of itself of a conspiracy. I had almost forgotten to observe Mr. Oliver's statement, that Meeks, before he started, tied a knot in the small end of a cowhide which he carried, manifestly to prevent it slipping out of his hand in the conflict which he so eagerly courted. His knife, by a sort of pious fraud, had been taken from him by Mr. Oliver, otherwise the result might have been very different. The prudent caution of Mr. Oliver in disarming him of this weapon proves how strong must have been the indications of his violent disposition.

"Mr. Reaugh says he was at the 'Galt House' on the evening of the affray and saw Redding in conversation with Rothwell and Halbert; he also saw Holmes and Johnson. Something in the demeanor of the party induced him to ask Johnson what was the matter. Johnson replied by relating the affair in the shop, upon which Reaugh observed, 'If the Mississippians fall into the hands of these men they will fare rather rough.' 'Yes,' replied the worthy butcher, 'they would skin them quicker than I could skin a sheep.' Mr. Reaugh states that he made the remark to Johnson because of the remarkable size and strength of the men to whom he alluded, the strange manner in which they assembled, and the fact that he knew them to be friends of Redding's, and that Redding had been in a quarrel with the Mississippians.

"Mr. Miller states that he being a member of the grand jury and having heard of the affray at Redding's, he went into a tin-shop to inquire about the matter, when Mr. Halbert came in and boasted much of what he intended to do. Witness then went to the 'Galt House' for supper, when he heard Redding abusing Judge Wilkinson and 'challenging him for a fight.' Witness advised Halbert to take Redding away, observing that he, witness, was on the grand jury, had the names, and would have

all the matter attended to. Some one, he thinks Johnson, then remarked, 'That if he didn't leave the room he'd see the finest sort of beefsteaks served up.' Presently he heard the exclamation near the counter, 'There they are, all three of them!' and the crowd immediately closed in upon the persons so indicated.

"Mr. Waggener also heard the remark about 'the steaks,' and then heard some one exclaim, 'We'll have a h—ll of a fight here just now.' He also heard Mr. Miller advise Halbert to take Redding away.

"Mr. Brown swears that he heard Mr. Miller tell Mr. Redding that he was not taking the proper course: he should have the matter before the grand jury; whereupon some one said, 'Hush, you Billy Miller; if it comes to handy-cuffs the boys will settle it.' The witness then became so apprehensive of a fight that he left the room.

"Now, though Miller is not positive as to the person who made use of the expression about 'serving up beefsteaks,' yet no one, I take it, will hesitate as to his identity. Who but Johnson could speak in such rich and technical language,—'having as much manhood as was ever wrapped in so much hide,'—while at the same time he had so arranged it that 'the hides of the Mississippians would not hold shucks?' Who but this unmitigated savage would talk of 'skinning a gentleman quicker than I could skin a sheep'? Why, he rubs his hands, licks his lips, and talks of serving up Christians in the shape of 'steaks' with as little compunction as you or I would in eating a radish. The cannibal! he should go at once to New Zealand and open his shambles there. His character would suit that country, and I doubt not he would obtain great custom and find ample demand for his human 'steaks.' Why, gentlemen, I should be afraid to buy meat out of his stall; he talks as if he supplied it by burking. I should expect some day to have swallowed an unbaptized infant in the disguise of a sucking pig, or to eat a fellow-citizen *incog.* in a 'steak.' Such a fellow should be looked after.

"But again, what means the expression deposed to by Renagh, 'There are all three of them now'? It was the signal for the conspirators to close in. It clearly proves a preconcerted plan. No names were mentioned, and without a previous understanding the expression would have been nonsense. Most of the party did not know the Mississippians; hence it was necessary that some one should give intimation when they entered the room. The expression, 'There they are!' was the signal for the onset. What meant the expression sworn to by Waggener, 'We'll have a h—ll of a fight here just now'?

"What conclusion do you draw from the response made to Miller when he advised Redding to bring the matter before the grand jury,—'Hush, you Billy Miller; if it comes to handy-cuffs the boys will settle it'? If what comes to handy-cuffs? and who are the 'boys'? Why if the quarrel with the Mississippians comes to handy-cuffs? And as for the 'boys,' there was not a man present who did not know who they were.

Redding was one of the 'boys,' and a very bad boy too. Billy Holmes was another. Marshal Holbert was a perfect 'broth of a boy,' and if his own story is entitled to credit he must have been '*twins*,' for he acted the part of at least two in the fight. Bill Johnson was as much of a boy as ever was 'wrapped in the same amount of hide,' though his extraordinary modesty has induced him to deny the soft impeachment. The unfortunate Meeks and Rothwell were two of the 'boys'; and last, though not least, comes Harry Oldham, the Jack Horner of the party. He sat in the corner till the fight was nearly over, when he put in his thumb and pulled out, not a 'plum,' but a pistol, and ever since has been exclaiming, 'What a brave boy am I!' Yes, gentlemen of the jury, these were the 'boys' whose strange appearance aroused the suspicions and excited the apprehensions of all.

"Permit me now to call your attention to the testimony of Mr. Donahue. It is clear and conclusive. He swears that on the evening of the affray, and just before it occurred, being in the bar-room of the 'Galt House,' he heard Rothwell ask Redding 'if they were there.' Upon being answered in the negative, he exclaimed, 'Come, let us go up-stairs and bring them down and give them h—ll!' Rothwell was the brother-in-law of Redding, had been informed by Redding of his grievances, and had accompanied him to the 'Galt House.' Whom did he mean when he asked 'if they were there'? The Mississippians, undoubtedly. Whom did he propose to drag from their rooms and chastise? Of course the same persons for whom he had just inquired. Rothwell asked 'if they were there.' When the defendants came in some one cried out, 'There they are, all three of them!' These two expressions manifestly emanated from persons who understood each other and were engaged in the pursuit of a common object. If these remarks had not relation to some previously concerted plan of action, they would be unmeaning and foolish; but granting the existence of the conspiracy I have supposed, and every word is pregnant with meaning; full of force, weight, and effect.

"Mr. Raily deposes to the caution given by Miller to Redding, also to the fact that Redding left the room when Judge Wilkinson had retired and came back immediately after the judge had returned. He also saw Oldham, after the affair was over, putting a pistol into his pocket and wiping with his handkerchief the blood from a double-edged dirk.

"Mr. Pearson says he went to the 'Galt House' just before supper on the evening of the affray. As he stood behind the bar one Captain Rogers observed that there would be a fight. Presently witness met Marshal Halbert and told him he ought to stop it, meaning the fight. Halbert said, 'No; let it go on.' This was before Redding had commenced abusing Judge Wilkinson, and proves that *the idea of a fight did not originate from that circumstance*. The judge came; Redding abused him. He went out, and Redding follows. He returned, and presently also so did Redding, *with a crowd at his heels*. Seeing the crowd and apprehending violence,

Mr. Pearson was in the act of leading the judge out of the room when the crowd rushed upon Murdaugh. The affray commenced and the judge stopped, refusing to leave the room until he saw his friends out of the difficulty. Need I ask you whether he was right in so doing?

"Mr. Banks says he saw Redding just after the first affray and asked him if he was hurt. He said 'No; but that he would have satisfaction,' and that 'he could whip all three.'

"Dr. Graham says that after Judge Wilkinson had left the bar-room the first time he heard some one observe, 'The d—d coward has run.'

"Does not Mr. Oldham's testimony prove the conspiracy? I do not mean directly, but circumstantially. He says he was not present at the fight in the bar-room, and knew nothing of the affair nor of the defendants. He says he was standing in the passage, when the door opened and he received a cut from Dr. Wilkinson, whom he knocked down for his pains. After fighting in the crowd awhile he saw Murdaugh retreating up-stairs and asking for a pistol, whereupon he was reminded of his own pistol, which he immediately drew and discharged at the retreating gentleman, giving him not the weapon, but its contents, to wit, a bullet split in three pieces. This worthy gentleman, who is certainly

'As mild a mannered man
As ever scuttled ship or cut a throat,'

swears positively that he did not know either of the defendants, that he belonged to neither party in the affray, and that he fought, to use his own descriptive and unrivalled phraseology, entirely 'upon his own hook.' Surely Mr. Henry Oldham must be the knight-errant of the age, the Don Quixote of the West, the paragon of modern chivalry. He fights not from the base desire of vengeance, not even from patriotism or friendship, but from a higher and loftier sentiment, from his pure, ardent, disinterested, unsophisticated love of glorious strife. Like Job's war-horse, he smelleth the battle afar off, and to the sound of the trumpet he saith 'Ha! ha!' To him

" 'There is something of pride in this perilous hour,
Whate'er be the shape in which death may lower,
For Fame is there to tell who bleeds,
And Honor's eye on daring deeds.'

"You have heard, gentlemen, of the bright, warm isles which gem the Oriental seas and are kissed by the fiery sun of the Tropics; where the clove, the cinnamon, and the nutmeg grow; where the torrid atmosphere is oppressed with a delicious but fierce and intoxicating influence. There the spirit of man partakes of the same spicy qualities which distinguish the productions of the soil. Even as the rinds of their fruit split open with nature's rich excess, so do the human passions burst forth with an overwhelming violence and prodigality unknown *till now* in our cold, ungentle clime. There, in the islands of Java, Sumatra, the Malaccas, and

others of the same latitude, cases similar to that of Mr. Henry Oldham are of frequent occurrence. In those countries it is called 'running a muck.' An individual becomes so full of fight that he can no longer contain it. Accordingly he arms himself with a species of dagger very similar to that from which Mr. Oldham wiped the blood with his pocket-handkerchief, and, rushing into the public streets, wounds and slays indiscriminately among the crowd. It is true that this gallant exploit always results in the death of the person performing it, the people of the country entertaining the foolish notion that it is too dangerous and expensive a mode of cultivating national bravery. But in the present instance I trust this rule will be relaxed. Mr. Oldham is the only specimen we possess of this peculiar habit of the spice islands, and he should be preserved as a curiosity. But, alas! the age of chivalry has gone by, and in the performance of my duty I fear I shall have to exhibit some little defects in the character of Mr. Oldham calculated in this censorious day to detract from his general merits. It is with great pain I feel constrained to say (for he is a sort of favorite of mine) that telling the truth is not one of his knightly accomplishments, and that his heroic conduct in the affray at the 'Galt House' was nothing more nor less, according to his own story, than a downright cowardly attempt at assassination.

"First, as to veracity. He says that he was cut in the passage by Dr. Wilkinson, to whose identity he swears positively; yet it was proven by half a dozen unimpeachable witnesses that the doctor was at that time *hors du combat*, beaten to a mummy, almost lifeless, perfectly limber, while his knife had fallen from his relaxed and nerveless grasp upon the floor of the bar-room, *where it was afterwards picked up*. Yet Oldham swears manfully that it was the doctor who cut him, though when asked if his face was not bloody he *replied the passage was too dark to enable him to distinguish faces*. If he could not see whether the face of the person who cut him was bruised or bloody, how dare he swear it was Dr. Wilkinson, whom he admits he had never seen before? Yet though his vision was so dull in regard to this matter, it was almost supernaturally keen upon another. He swears that he was cut by a dirk-knife with a *white handle*. Now in this dusky passage, where he could not see his assailant's face, how could he distinguish so accurately the character of the weapon, and more especially of the handle? The handle of the knife as either of those exhibited would be entirely concealed in the grasp of the holder; but Mr. Oldham could see through the hand and swear to the *color of the handle*, even when he could not distinguish the color of the assailant's face.

"The prosecution seems to be afflicted with a monomania on the subject of white-handled knives. The white handles cause them greater terror and excite more of their observation than the blades. One would almost be led to suppose from the evidence that the defendants held by the blades and fought with the handles. Those white handles flash before their

eyes like the bright inscriptions upon the dim steel of a Turkish cimeter. I hope, though with many misgivings, that none of them will ever die of a *white handle*.

"But to return to my subject. Why, in the name of all that's human or humane, did Oldham shoot at Murdaugh, whom he acknowledges he did not know, of whose connection with Dr. Wilkinson he was unacquainted, and who had not attempted to do him the slightest injury? According to his own account of the matter he acted the part of a base and cowardly assassin. If he tells the truth, he is an assassinating villain; if he does not, he is a perjured villain. I leave him the choice of these two horns of the dilemma, though I doubt not the latter is the one upon which he is destined to hang. I cannot believe in the existence of such a monster as he would make himself out to be, and have offered his conduct to you as evidence of the existence of a conspiracy and of his participation in it. It is better that he should have the excuse of fighting in Redding's quarrel than no excuse at all.

"Gentlemen of the jury, I have now performed my task, which embraced the circumstantial evidence. Out of the mouths of fifteen different witnesses, most of them gentlemen of high character and undoubted veracity, I have exhibited to you an almost countless variety of circumstances, the occurrence of which, or any great portion of them, is absolutely incompatible with any other hypothesis than that of the existence of a conspiracy, which I proposed at the outset to prove. Upon that hypothesis all these circumstances are easily explicable and in perfect accordance with the ordinary principles of human action. I have combined the scattered strands of evidence, I have finished the cable which I promised, and now challenge the opposing counsel to try their strength upon it. They may pick it into oakum, but I defy them to break it.

"There is one argument in favor of the view I have taken of the origin of this unfortunate affray which may be properly introduced at this time, and with which I shall close this branch of the subject. It arises out of the respective characters and positions in life of the two parties, and is, in my opinion, entitled to great weight. Who, judging of the character and situation, was most likely to have sought and provoked the unfortunate conflict, Judge Wilkinson or Mr. Redding? The conduct of the judge under opprobrious epithets heaped upon him by Redding in the bar-room sufficiently indicates that, though he had previously given way to sudden passion, he was *now cool, collected, and forbearing*. His mind had recovered its balance, and he behaved on this occasion, as well as subsequently, with philosophical calmness. I doubt, gentlemen, whether any one of you would have permitted Mr. Redding to have indulged with impunity in such unmeasured abuse. But the situation of the judge was peculiar, and every inducement which could operate upon a gentleman warned him against participation in broils and battles. With buoyant feelings and pulse-quickenings anticipations he had come more than a thousand miles

upon a pilgrimage to the shrine of beauty and not of blood. He came to transplant one of Kentucky's fairest flowers to the warm gardens of the sunny South, there to bloom in beauty and in brightness. The marriage-feast was spread, the bridal wreath was woven, and many bounding hearts and sparkling eyes chided the lagging hours. The thoughts of the bridegroom did not dwell upon the ignoble controversy which for an unguarded moment had occupied his attention, but upon the bright and glorious future, whose rapturous visions were about to become enchanting realities. Under such circumstances Judge Wilkinson could not have desired the conflict. Had the fires of hell blazed in his bosom they must have been quenched for a while. The very fiend of discord would have been ashamed, fresh from a voluntary, vulgar, bloody quarrel, and reeking with its unsightly memorials, to have sought the gay wedding banquet.

"You cannot believe he coveted or courted the unfortunate affray without at the same time considering him destitute not only of all sentiment of delicacy and refinement, but of every characteristic of a man. Does his previous character warrant such a conclusion? He has, as has been shown to you in the evidence, ever entertained the character of an honorable and upright gentleman. I see by the sneer upon the lips of the adverse counsel that the term grates harshly upon his sensibilities. But, I repeat it, Judge Wilkinson has ever entertained the character of a gentleman,—a character directly at war with the supposition that his conduct on this occasion *resulted otherwise than from necessity*. I mean by 'a gentleman' not the *broadcloth*, but the *man*,—one who is above doing a mean, cowardly, or a dishonest action, whatever may be the temptation; one who forms his own standard of right and will not swerve from it; who regards the opinions of the world much, but his own self-respect more. Such men are confined to no particular class of society, though I fear they do not abound in any. I will save the counsel the trouble of translating his sneer into language by admitting that they are as readily to be found among mechanics as elsewhere. Such a man I believe Judge Wilkinson to be; such has ever been his character, and he is entitled to the benefit of it on this occasion. *It* ought to have, and I know it will have, very great weight with you. Good character always has been and always should be a wall of strength around its possessor, a sevenfold shield to him who bears it. This is one of the advantages which virtue has over vice, honorable over dishonorable conduct,—an advantage which it is the very highest interest of society to cherish and enforce. In proportion to the excellence of a man's character is and ever ought to be the violence of the presumption that he has been guilty of crime. I appeal, then, to Judge Wilkinson's character to prove that he could not have desired this unfortunate controversy; that it is *impossible* that he should have been guilty, under the circumstances which then surrounded him, of the crime of *wilful and malicious murder*.

"What, on the other hand, was the condition of the conspirators?

Redding had been going about from street to street, like Peter the Hermit, preaching up a crusade against the Mississippians. Johnson, like Tecumseh,—but, no, I will not assimilate him to that noble warrior,—like an Indian runner, was threading each path in the city, inviting his tribe to dig up the tomahawk and drive it not into the scalps but the steaks of the foe. But I will not pursue this point at greater length.

"I proposed, after arguing the position that there actually was a conspiracy to chastise the defendants and inflict upon them great bodily harm, to show, in the next place, that the defendants had *good reason to believe* such a conspiracy existed, whether in point of fact it did or not. Most of the arguments bearing upon this proposition have been already advanced in support of the other. These I will not repeat. There are one or two others worthy of notice. What could Judge Wilkinson have supposed from the conduct of Redding but that he sought and provoked a difficulty? What else could he conclude from the unmitigated abuse which was heaped upon him from the opening of the very sluices of vulgarity? That the judge apprehended violence is evident from the warning which he gave. He told Redding that he might say what he pleased, but not to lay his hands upon him; if he did he would kill him. He could not be *supposed to know that Redding came only for the names* when Meeks stepped up to Murdaugh and struck him with his clubbed whip while the crowd closed in around. What could Murdaugh reasonably expect but violence and bodily harm resulting from preconcerted arrangement? Without going at length into an argument on this point, I take it for granted no one will deny that the defendants had ample grounds for apprehending the existence on the part of Mr. Redding and his friends of a conspiracy to commit upon them personal violence.

"Let us now look a moment at the conduct of the defendants at the 'Galt House,' and see whether it transcended the bounds of right, reason, or prudence. When Murdaugh and the doctor entered the room the exclamation was made by some one, loud enough for all to hear, 'There they are, all three of them, now!' Upon which, according to nearly all the witnesses, Mr. Redding made the remark to Murdaugh, 'You are the man that drew the bowie-knife on me.' You will recollect that Redding had just crossed Judge Wilkinson's path and placed himself with his back against the counter, manifestly for the object of bringing on the fight. Murdaugh, indignant at being publicly charged with having drawn a bowie-knife upon an unarmed man, replied 'that any one who said that he had drawn a bowie-knife told a d—d lie,' whereupon instantly steps up Meeks with his knotted cowhide, exclaiming, 'You are the d—d little rascal that did it!' at the same time inflicting upon him a severe blow. By the by, this assertion of Meeks proves that he had been at Redding's after the first affray and heard a full account of it.

"It is urged against the judge that when Mr. Everett led him to his room he asked for pistols. I think an argument can be drawn from this

circumstance in his favor. His requisition for arms proves that he considered himself and his friends in great personal danger. He manifestly required them not for offence but defence. Had he intended an attack he would not have gone down to the bar-room without first obtaining the weapons he desired. Men do not voluntarily attempt the lives of others without being well prepared. It is evident that Judge Wilkinson and his friends thought only of the protection of their persons, for they went downstairs provided only with the ordinary weapons which they were accustomed to bear. Murdaugh and the doctor had a pocket-knife each, the same they had previously carried. They had added nothing to their armor, offensive or defensive. The judge, apprehensive of difficulty, had taken his bowie knife, which probably he had not previously worn. When, at the solicitation of Mr. Everett, he retired, he doubtless informed his friends of what had just transpired in the bar-room, and expressed his fears of violence. This accounts for the readiness with which Murdaugh met the assault of the two powerful men who simultaneously rushed upon him.

"The evidence is conclusive that Meeks commenced the attack upon Murdaugh by two rapid violent blows of a cowhide, accompanied by a heavy blow from a stick or cane from the hands of Rothwell. At the same time he seized the hand of Murdaugh, in which, prepared for defence, was an open knife; but Murdaugh, with coolness and celerity, changed the weapon to his left hand and used it according to the dictates of both law and common sense. The very first blow had driven him to the wall. The crowd closed around him; he could not retreat, and was justified, according to the strictest and most technical principles of the English jurisprudence, to take the life of his assailant. No man but a fool or a coward could have acted otherwise than he did. Was he not, according to the rule read by the district attorney, in imminent danger of his life or of great bodily harm? Let the unhealed wound upon his head respond. Let his hat, which has been exhibited to you, answer the question. Upon this you may perceive two incisions, which must have been caused by a sharp cutting instrument. No obtuse weapon was capable of the effect. The blows were manifestly sufficient to have caused death but for the intervention of the elastic material upon which their principal force was expended. The part then taken by Mr. Murdaugh in the affray was clearly defensible and justifiable.

"It is not pretended that Dr. Wilkinson took any other part in the affray than attempting to escape from its violence, unless you notice the evidence of Oldham that he cut him as he fled from the room. He was beaten first by Rothwell, then by Holmes; and, if you take their own statements, by those two worthies, Halbert and Oldham. He was crushed almost to atoms. He had not a chance *even* for self-defence. Rothwell had left Murdaugh, after striking one blow, in charge of Meeks, and fell upon the doctor. While beating the doctor he was stabbed by the judge near the dining-room door. The doctor fled round the room, still followed

by Rothwell, who was again struck by the judge when upon the opposite side. The two blows paralyzed his powers, when Holmes stepped in and so completely prostrated the doctor that he was compelled to hold him with one hand while he beat him with the other. Neither offensive word nor action upon this occasion on the part of Dr. Wilkinson is proven or pretended. It is perfectly clear that he was beaten by Redding's friends simply because he was of the Mississippi party. I consider it highly disgraceful to the grand jury who found the bill that he was included in it.

"In reference to the part taken by Judge Wilkinson, it is proven beyond contradiction by Mr. Pearson, a gentleman of undoubted veracity, that the judge, at his solicitation, was in the act of leaving the room as the affray commenced, when, witnessing the attack upon Murdaugh, he stopped, refusing to leave until he saw the result of the controversy in which his friend was engaged. Standing in the corner of the room he did not at first take part in the conflict, perceiving, doubtless, that Murdaugh was making good his own defence. Presently, however, he cast his eyes around and saw his brother trodden under foot, entirely powerless, and either dead or in immediate danger from the fierce blows of Rothwell, who, as you have heard, was a man of tremendous physical power and armed with a bludgeon, some say a sword-cane. *Then* it was, he thought, necessary to act, and advancing through the crowd to the spot, he wounded the assailant who was crushing out his brother's life. General Chambers swears positively that Rothwell was beating with a stick and with great severity some one, whom the other witnesses identify as the doctor, at the time he was stabbed near the dining-room door. This produced a slight diversion in the doctor's favor, who availed himself of it by retreating in a stooping posture towards the passage door. Rothwell, however, pursued and beat him down, but was arrested in his violence by another blow from Judge Wilkinson, which, together with a puncture in his throat, received, in all probability, from a chance thrust of the sword-cane in the hand of one of his own party, disabled him and caused his death. About this time Holmes was completing Rothwell's unfinished work, and the doctor, hunted entirely around the room, fell utterly exhausted at the feet of his relentless pursuers. It is wonderful he had strength to escape with Murdaugh and the judge.

"Such, briefly, were the parts enacted by these defendants respectively in this unfortunate affair, the result of which none regret more than themselves. Considering the proof of the conspiracy, and the knowledge or even the reasonable apprehension on the part of the defendants of its existence, as affording them ample justification for their participation in the matter, I have not thought it necessary to go into a minute analysis of the evidence on this branch of the subject, nor to attempt to reconcile those slight discrepancies which will always occur in the testimony of the most veracious witnesses in giving an account of a transaction viewed from different positions and at different periods of time.

"The law of self-defence has always had and ought to have a more liberal construction in this country than in England. Men claim more personal independence here; of course they have more to defend. They claim more freedom and license in their actions toward each other, consequently there is greater reason for apprehending personal attack from an enemy. In this country men retain in their own hands a larger portion of personal rights than in any other, and one will be authorized to presume an intention to exercise and enforce them upon grounds that in other countries would not excite the slightest suspicion. It is the apprehension of impending harm and not its actual existence which constitutes the justification for defensive action. If mine enemy point at me an unloaded pistol or a wooden gun in a manner calculated to excite in my mind apprehensions of immediate great bodily harm, I am justifiable in taking his life, though it turn out afterwards that I was in no actual danger. So, on the other hand, if I take the life of another without being aware of any intended violence on his part, it will constitute no excuse for me to prove that he intended an attack upon me.

"The apprehension must be reasonable, and its reasonableness may depend upon a variety of circumstances,—time, place, and manner, as well as character. The same appearance of danger would authorize greater apprehension, and of course readier defensive action, at night than in the daytime. An attack upon one in his own house would indicate greater violence and excuse stronger opposing action than an attack in the street. Indications of violence from an individual of known desperate and dangerous character will justify defensive and preventive action which would be inexcusable towards a notorious coward. A stranger may reasonably indulge, from the appearance or threats of a mob, apprehensions that would be unpardonable in a citizen surrounded by his neighbors and friends. Bearing these observations in mind, let us look at the situation of the defendants. They were attacked at their hotel, which for the time being was their house. They were strangers, and a fierce mob had gathered around them, indicating both by word and deed the most violent intentions. They were three small, weak men, without friends, for even the proprietor of the house, who should have protected them, had become alarmed and left them to their fate. Their enemies were comparatively giants, dangerous in appearance and desperate in action. Was there not ample ground for the most fearful apprehensions?

"But the district attorney says they are not entitled to the benefit of the law of self-defence because they came down to supper, and thus placed themselves voluntarily within reach of danger. According to his view of the case they should have remained in their chamber in a state of siege, without the right to sally forth even for provisions, while the enemy, cutting off their supplies, would doubtless soon have starved them into a surrender. But it seems there is a private entrance to the supper-table, and they should have skulked in through that. No one but a craven coward

unworthy of the privileges of a man would have followed such a course. The ordinary entrance to the supper was through the bar-room. They had a right to pass that way; no law forbade it. Every principle of independence and self-respect prompted it. And through that bar-room I would have gone as they did though the floor had been fresh sown with the fabled dragon's teeth bristling with its crop of armed men.

"I care not whether the assailing party had deadly weapons or not, though I will by and by show they had, and used them too. But the true question is, whether the defendants had not good reason for believing them armed and every way prepared for a desperate conflict. I have shown already that Dr. Wilkinson and Mr. Murdaugh did not transcend the most technical principle laid down by the Commonwealth's attorney, not even that which requires a man to run to the wall before he can be permitted to defend himself,—a principle which in practice is exploded in England, and never did obtain in this country at all. But, says the learned attorney, Judge Wilkinson interfered, and took part before he was himself attacked. He had no right to anticipate the attack upon himself; he had no right to defend his friend; he had no right to protect his brother's life. Now I differ from the worthy counsel on all these points. I think he had a right by anticipating its violence upon his person; he had a right to defend his friend; it was his sacred duty to protect his brother's life. Judge Wilkinson was the most obnoxious of the party; his friends were already overpowered; he could not expect to escape, and in a moment the whole force of the bandit gang would have been turned upon him.

"The principles of self-defence, which pervade all animated nature and act towards life the same part that is performed by the external mechanism of the eye towards the delicate sense of vision, affording it on the approach of danger at the same time warning and protection, do not require that action should be withheld till it can be of no avail. When the rattlesnake gives warning of its fatal purpose, the wary traveller waits not for the poisonous blow, but plants upon his head his armed heel and crushes out at once his venom and his strength. When the hunter hears the rustling in the jungle and beholds the large green eyes of the spotted tiger glaring upon him, he waits not for the deadly spring, but sends at once through the brain of his crouching enemy the swift and leaden death.

"If war was declared against your country by an insulting foe, would you wait till your sleeping cities were wakened by the terrible music of the bursting bomb? till your grain-fields were trampled by the hoofs of the invader and made red with the blood of your brethren? No! you would send forth fleets and armies, you would unloose upon the broad ocean your keen falcons, and the thunder of your guns would arouse stern echoes along the hostile coast. Yet this would be but natural defence, and authorized by the same great principle of self-protection which applies no less to *individuals* than to nations.

"But Judge Wilkinson had no right to interfere in the defence of his brother, so says the Commonwealth's attorney. Go, gentlemen, and ask your mothers and sisters whether that be the law. I refer you to no musty tomes, but to the living volume of nature. What! a man not permitted to defend his brother against conspirators, against assassins, who are crushing out the very life of their bruised and powerless victim! Why, he who would shape his conduct by such a principle doesn't deserve to have a brother or a friend. To fight for self is but the result of an honest instinct which we have in common with the brutes; to defend those who are dear to us is the highest exercise of the principle of self-defence. It nourishes all the noblest social qualities, and constitutes the germ of patriotism itself.

"Why is the step of the Kentuckian free as that of the bounding deer, firm, manly, and confident as that of the MacGregor when his foot was upon the heather of his native hills and his eye on the peak of Ben Lomond? It is because he feels independent and proud: independent in the knowledge of his rights, and proud in the generous consciousness of ability and courage to defend them, not only in his own person but in the persons of those who are dear to him. It was not the blood that would desert a brother or a friend which swelled the hearts of your fathers in 'the olden time,' when in the defence of those they loved they sought the red savage through the fastnesses of his native forests. It was not such blood that was poured free as the gushing torrent upon the dark banks of the melancholy Raisin when all Kentucky manned her warrior sires. They were as bold and true as ever fought beneath a plume. The Roncesvalles pass, where fell before the opposing lance the harnessed chivalry of Spain, looked not upon a better or a braver band.

"Kentucky has no law which precludes a man from defending himself, his brother, or his friend. Better for Judge Wilkinson had he never been born than that he should have failed in his duty on this occasion. Had he acted otherwise than he did he would have been ruined in his own estimation and blasted in the opinion of the world. And young Murdaugh, too, he has a mother who is looking even now from her window, anxiously watching for her son's return; but better both for her and him that he should have been borne a bloody corse to her arms than that he should have carried to her unavenged the degrading marks of the accursed whip!

"But there was danger as well as degradation. Their lives were in imminent hazard. Look at the cuts in Murdaugh's hat and upon his head, the stab received by the judge, and the wounds inflicted upon the doctor. Besides the overwhelming superiority in numbers and strength, the conspirators had very greatly the advantage in weapons. We have proven the exhibition and use by them of knives, dirks, a sword-cane, and a pistol, without counting bludgeons, which, in the hands of such men, are weapons little less deadly than the others.

"Need I dwell longer on this point? Need I say the defendants are no murderers; that they acted in self-defence, and took life from necessity, not from malice? But there is a murderer, and, strange to say, his name appears upon the indictment not as criminal but as prosecutor. His garments are wet with the blood of those upon whose deaths you hold this solemn inquest. Yonder he sits, allaying for a moment the hunger of that fierce vulture, conscience, by casting before it the food of pretending regret and false but apparent eagerness for justice. He hopes to appease the manes of his slaughtered victims to his falsehood and treachery by sacrificing upon their graves a hecatomb of innocent men. By base misrepresentation of the conduct of the defendants he induced his imprudent friends to attempt a vindication of his pretended wrongs by violence and bloodshed. His clansmen gathered at his call and followed him for vengeance. But when the fight began and the keen weapons clashed in the sharp conflict, where was this wordy warrior? Ay, 'where was Roderick then?' No blast upon his bugle horn encouraged his companions as they were laying down their lives in his quarrel. No gleam of his dagger indicated a desire to avenge their fall. With treacherous cowardice he left them to their fate, and all his vaunted courage ended in ignominious flight. Sad and gloomy is the path that lies before him. You will in a few minutes dash, untasted, from his lips the sweet cup of revenge, to quaff whose intoxicating contents he has paid a price that would have purchased the goblet of an Egyptian queen. I behold gathering around him thick and fast dark and corroding cares. That face which looks so ruddy, and even now is flushed with shame and conscious guilt, will from this day grow pale, until the craven blood shall refuse to visit his haggard cheek. In his broken and distorted sleep his dreams will be more fearful than those of the false, perjured Clarence, and around his waking pillow, in the deep hour of night, will flit the ghosts of Rothwell and of Meeks, shrieking their curses on his shrinking ear. Upon his head rests not only all the blood shed in this unfortunate strife, but also the soul-killing crime of perjury, for surely as he lives did the words of craft and falsehood fall from his lips ere they were hardly loosened from the holy volume. But I dismiss him and do consign him to the Furies, trusting in all charity that the terrible punishment he must suffer from the scorpion lash of a guilty conscience will be considered in his last account.

"Johnson and Oldham, too, are murderers at heart, but I shall make to them no appeal. There is no chord in their bosoms which can render back music to the touch of feeling. They have both perjured themselves. The former cut up the truth as coolly as if he had been carving meat in his own stall. The latter, on the contrary, was no longer the bold and hot-blooded knight, but the shrinking, pale-faced witness. Cowering beneath your stern and indignant gaze, marked you not how his 'coward lip did from its color fly,' and how his quailing eye sought, from floor to rafter, protection from each honest glance?

"It seems to me that the finger of Providence is visible in the protection of the defendants. Had this affair occurred in Mr. Redding's coffee-house instead of the 'Galt House,' nothing could have saved them. Their lives would have been sworn away without remorse by Redding and his gang. All that saved them from sacrifice was the accidental presence of gentlemen whose testimony cannot be doubted, and who have given an honest and true account of the transaction.

"Gentlemen of the jury, I shall detain you no longer. It was in fact a matter of supererogation for me to address you at all after the powerful and lucid exposition of the case which has been given by my respected friend, Colonel Robertson. It is doubly so when it is considered that I am to be succeeded by a gentleman (Judge Rowan) who better, perhaps, than any other man living can give you in his profound learning and experience a just interpretation of the laws of your State, and in his own person a noble illustration of that proud and generous character which is a part of the birthright of a Kentuckian. It is true I had hoped when the evidence was closed that the Commonwealth's attorney might have found it in accordance with his duty and his feelings to have entered at once a *nolle prosequi*. Could the genius of 'old Kentucky' have spoken, such would have been her mandate. Blushing with shame at the inhospitable conduct of a portion of her sons, she would have hastened to make reparation.

"Gentlemen, let her sentiments be spoken by you. Let your verdict take character from the noble State which you in part represent. Without leaving your box announce to the world that here the defence of one's own person is no crime; that the protection of a brother's life is a subject of *approbation* rather than punishment.

"Gentlemen of the jury, I return you my most profound and sincere thanks for the kindness with which you have listened to me, a stranger pleading the cause of strangers. Your generous and indulgent treatment I shall ever remember with the most grateful emotions. In full confidence that you, by your sense of humanity and justice, will supply the many defects in my feeble advocacy, I now resign into your hands the fate of my clients. As you shall do unto them under like circumstances may it be done unto you."

During the delivery of this speech Prentiss had been repeatedly interrupted by bursts of applause from the assembled auditory, and when he sat down was greeted with irrepressible cheers.

Mr. Thompson followed for the defence. He began by paying a compliment to Prentiss, who had just taken his seat, and to Judge Rowan, who was to succeed him. His speech was able and eloquent. When he closed, Ben Hardin, of Ken-

tucky, followed on the side of the State. Mr. Hardin spoke for five hours. It might well be said that after a practice of fifty years this was his greatest effort. We shall quote an extract, showing what he thought of Prentiss's speech. Warning the jury against outside applause and paying a handsome compliment to Colonel Robertson, he proceeds:

"I also listened with great pleasure to Mr. Prentiss, who addressed you yesterday, and in part to-day, and I must say that although there were some things in his speech which I could not approve and many deductions which I could not admit, yet on the whole it was an oratorical effort which I could not help admiring. I am even disposed to go further, and to say that I am utterly astonished that such forensic powers, so ably wielded, did not prove less abortive; but I must attribute the feebleness of the effect more to the weakness of the cause than to the want of genius in the advocate."

He then proceeded to combat the propositions laid down by Prentiss.

Mr. Hardin was followed by Judge Rowan for the defence. He alludes to Hardin's speech as a "philippic of four hours against his clients, as remarkable for vigor of intellect as for vehemence and impassioned zeal," and Hardin, as the hired counsel, he arraigned in scathing terms, dwelling upon the wrong of a *hired* counsel appearing to prosecute in capital cases. After this he discussed the case in an eloquent manner. In reply to Hardin's strictures upon Mississippi and the Mississippians, he speaks as follows:

"Gentlemen, Mr. Hardin tells you that he has lately returned from Mississippi, and from the graphic and glowing description he has given you, of the battle-scenes which he stumbled upon in the short excursion which he made from Vicksburg into the country, one would be almost tempted to believe that a horror of dirks, pistols, and bowie-knives had seized upon his feelings and distempered his imagination; hence he sees nothing commendable in the character of the people of that State. He portrays them as irritable, vindictive; and sanguinary; as a lordly people who look down with contempt upon mechanics and the laboring classes of mankind. He *kindly* supposes that the climate in which they live may produce the obnoxious bias to their character. If they are attributable to the climate, it is unphilosophical to complain of them, for it was settled in the case of Nebuchadnezzar that the heavens must rule. But do these facts as he represented them exist in reality, or are they the offspring of

his own heated fancy in this case? He must allow me to suppose them factitious. I, too, visited that State more than once, and continued long enough in it to become acquainted, to some extent, with the people, their manners, habits, and customs. On my last visit, which was about three years ago, I spent nearly a month at the seat of government during the session of the Legislature; during that time I saw and became acquainted with many of her citizens, and among others with Judge Wilkinson and Mr. Prentiss,—the gentleman with the witchery of whose eloquence and power of argument we have just been delighted, instructed; let me add, *convinced*—they were both members, and leading members, of the Legislature. I saw nothing ferocious or sanguinary about the people of that State; they treated me with the utmost civility, politeness, and with marked hospitality. The members of the Legislature and many of the respectable citizens who were on a visit to the capital, overlooking all political party distinctions, united upon pressing upon the distinguished stranger (as they were pleased to denominate me) from Kentucky a most splendid public dinner.

“Gentlemen, I have been much concerned through life in legislation, and of course my acquaintance with political men, legislators and others, has been extensive, and I can say that I never in my life saw a more respectable, orderly, and intelligent assembly convened, either in my own or any other State; nor did I ever see a more intelligent, polite, hospitable people than the people of that State. They detest knaves and cowards, and are prompt to fraternize with honorable men, to support, assist, and uphold men of that character, without inquiry into their avocations; mechanics, agriculturists, or laborers makes no difference with them. If he be honest and honorable in his transactions and industrious and temperate in his habits, whether poor or rich, it makes no difference; if poor, they enable him to become rich.

“Gentlemen, the people of Kentucky should be among the very last to make or sanction such imputations against the people of Mississippi. For all the Kentuckians of good character who have gone to that State, and many have gone there, have been kindly received, and, when they needed, generously assisted with loans, both of money and credit, whereof they have become rich. They went there, most of them, mechanics and laborers, they are now rich planters. The gentleman says they look down upon poor mechanics. It is true, they do so; but it is to discover their merit, and if they possess it, to lift them up, to elevate, to support, to sustain them in their exaltation. But the other day they looked down upon Mr. Henderson, a shoemaker, saw his merit, and elevated him to a seat in the Senate of the United States. But that is not the only instance. They *looked down* upon Mr. Prentiss, who had travelled from the far East and was engaged in teaching school among them, an *obscure pedagogue*. No, I cannot say he was *obscure*. He could not be *obscure* anywhere. The eruptive flashes of his great mind, like those of *Ætna*, threw a blaze of

light around him which attracted, or rather *exacted*, their gaze and admiration. They sent him as their Representative to the Congress of the United States. Mr. Prentiss must pardon me for thus going into his private history. I was myself an humble pedagogue. The difference in our condition is, that in my case the people of Kentucky honored *me*, in his, the people of Mississippi honored *themselves*. They looked *down* upon Judge Wilkinson, they discerned his talents, his worth, and elevated him to the Legislature, elevated him to the bench, and conferred upon him the commission to negotiate a loan in Europe for the purposes of internal improvement, as you have heard from the proof in this case. Instances are innumerable, but I shall not go into detail."

Judge Rowan then went into an argument of the right to bear arms in self-defence, and applied the law to the facts. The whole of his speech is more elaborately reported than all the other speeches, and to-day stands a monument to the greatness and power of this great advocate.

When Rowan closed the prosecuting attorney closed with the concluding speech. In this he thus alludes to Prentiss :

"I have listened with great admiration to the splendid effort made for the defence by one who has risen in this court for the first time, though distinguished and honored throughout the Union for his unrivalled powers of eloquence. But however much we may be fascinated, we must reflect that the brilliant flowers of language addressed to the passions have no sympathizing response in the laws of the land."

He then proceeded to answer the arguments of the counsel for defence, and concluded fifty-five minutes past three o'clock. The jury then retired. The intense agony of that moment can better be conceived than described. The fate of *four* lives was now involved in the verdict, for since the tragedy Wilkinson had married. The jury came back in exactly fifteen minutes, and brought in a verdict of *not guilty* in both indictments.

In the midst of the thunders of applause, in the midst of overwhelming congratulations, it is probable that, deep down in Prentiss's heart, he had but one glory, and that the thought that his friends were saved from an unjust and ignominious fate. His only fee—he scorned any other—was the affectionate gratitude of those whom he had done all in his power to help to save.

I have heard a floating rumor, and can vouch for its truth, that it happened that Prentiss, in returning to Louisville, was

compelled to go by the same stage that was to convey some of the very State witnesses whom he had so excoriated. The story runs that as he got into the stage he said, in substance, "Well, boys, I had to be pretty tight on you to save my friends, but that's in the line of my profession, you know." Before the journey was over such were his sallies of wit and good humor that peace was declared between them.

It will be observed that he was unusually severe on Mr. Redding, and it is but justice to Mr. Redding to state that when the reporter was about to publish an account of the trial, some sixty citizens of Louisville certified as to the integrity, industry, veracity, and unimpeachable honor of the man, all of which can be seen in the Appendix to the volume of Wilkinson's trial.

It must be said of this speech of Prentiss, as must be said of *all* his speeches, that the reported one does not equal the actual delivery. Mr. Browne (the publisher of the "Wilkinson Trial") wrote to Prentiss, sending him his notes, and begging that he would fill them up, and thus the sparkling fragments were joined together by memory long after the inspiration had passed away.

It has been asserted by some of Mr. Prentiss's over-zealous admirers that he never went into a case unprepared, but, if so, that his genius could supply the deficiency. This is a mistake. Judge Alexander Montgomery—premising his story with the remark that law was a science to be learned, and that no genius, however precocious, could without preparation supply a want of knowledge of its principles—told me that he and Prentiss were once engaged in a very important case before the Supreme Court. Prentiss was not prepared, but began the argument; before he had proceeded very far Judge Montgomery discovered that Prentiss did not understand the case, and, very properly, suggested to the court that it would be advisable to adjourn the argument till the next day; this was granted. That night Judge Montgomery, with Mr. Prentiss, examined the record, and they together discussed the points and collated the authorities, and the following day Mr. Prentiss made a luminous argument, such an one as only he could make, throwing more light on the sub-

ject than he, Montgomery, had ever dreamed of, although he had been at work on the case for months.

Mr. Prentiss's quickness of apprehension is further illustrated by the story told in the "Memoirs" by General W. R. Miles, where, when on one occasion Prentiss coming in late, Mr. Miles read the record very slowly, in order to give Prentiss a chance to catch the drift, after which Mr. Prentiss rose and told more about the case, and argued it better even than he did, although it had been with him a subject of deep study.

CHAPTER XV.

THUS crowned with success and honors, Prentiss reached his Vicksburg home on the 23d of March, 1839. He was now a free man, and it was his publicly-expressed intention to quit politics forever and devote himself to his private affairs.

During one of his visits about this time (1838-39) to Natchez there appeared there a man whose career was so eccentric that for a moment it excited a great deal of attention and amusement. He seemingly formed a great attachment for Prentiss, and for a time was, so to speak, his satellite. Like Beau Brummel of London society, and Beau Hickman of Washington notoriety, his qualities shone by their eccentricity. He is said to have been a man of pleasing address and literary culture; he had aspired to fame in that line, and had written a very creditable history of his native State, North Carolina; but the main aim of his life seemed to be the luxury of enjoying the fun of hoaxing people.

He appeared in Natchez, and represented himself as being a government agent sent to investigate the condition of the banks, and so announced himself to the Planters' Bank there. It so happened at this time that the president of the bank was on a visit to the Secretary of the Treasury; the cashier of the bank, knowing this fact, demanded the investigator's credentials, upon which he, taking high dudgeon, withdrew his deposits, and afterwards remarked to his friends, "that old cashier sha'n't have a dollar of my money."

Besides enacting this *rôle* of investigator he played yet another. He professed to have fifty thousand dollars of the "Cape Fear Bank" money, which he wished to loan, and ostentatiously paraded the packages marked in the exact style of money packages and formally deposited them in the vault of the bank; he consequently, of course, became the centre of attraction to the

ban officers, who were just then sadly in need of every dollar that could be raised. The hero of the fifty thousand dollars was fêted and dined and wined to his heart's content. He became familiar and even patronizing in his manners toward Prentiss, and called him "Pren." When happening to travel together on the steamboats, he would go to the barkeeper and say, "If the little lame man wants a drink let him have it, and I'll pay for it."

At length the joker, having gotten his fill of flattery, not to say other condiments, quietly slipped away. His fifty-thousand-dollar deposit was found to contain neatly-done-up files of old newspapers, and that "old cashier" had the laugh on the *victims* who had been bamboozled. He "*did*" Prentiss, as endorser, only for the small sum of three hundred dollars, which the latter had to honor. Whether or not this was ever refunded I cannot say. It is affirmed that if about that time any one wished particularly to tease Mr. Prentiss all that was necessary was simply to call him "Pren."

Scarcely had Prentiss settled down in his Vicksburg home ere there was another call for his public services. The Whigs from Madison and Adams Counties, as well as from other parts of the State, and his friends in Kentucky all requested him to be a candidate for United States Senator. But two out of the twenty who signed their names to the call from Adams could now answer the roll call,—Charles A. Lacoste, now of St. Louis, and Samuel B. Newman, now of New Orleans.

Prentiss's reply to this solicitation was to yield to the wishes of his friends and to say that his services were at the command of the State, but that he did "not think them of sufficient importance to have voluntarily tendered them." His reply to the Madison County delegation was more elaborate, giving his reasons for thinking the Whig party ought to be sustained.

He made a brief canvass for the office, but was beaten by his whilom friend, Robert J. Walker. He conducted his canvass on purely political principles; no poisoned shaft was let fly from his bow. Of his opponent he said, "Politically, I war upon him to the utmost of my strength, because I believe his principles to be pernicious and to tend to the ruin of the country."

Personally, as he well knows, I have never entertained toward him other than kind and friendly sentiments."

What a glorious Senator he would have made can be conceived from the impression he made in the lower hall of Congress. Born at one extreme of the Union, and reared, as it were, at the other, his great heart oscillated like a pendulum from Maine to Mississippi and embraced the whole Union within the compass of its affections. Had he been elected he would have felt bound, as he said, to devote his whole time to preparation for the arduous and dignified duties which belong to that high station. It would have disturbed the entire plans of his life, caused an immediate abandonment of his profession, and involved a heavy pecuniary sacrifice; on the whole, his defeat was fortunate for him individually, but the State was thereby a loser.

He had a vein of drollery in his composition, and had dubbed his Vicksburg home "Cub Castle." In this home he had heretofore lived a bachelor,—none of his family had ever visited him to stay,—but this winter his sister Anna, who bore a striking personal resemblance to him, came to Vicksburg, with the family of Judge Guion, to make a visit to her brother. She was welcomed with open arms for her brother's sake by his friends, but they soon learned to *love her for her own*. No bird that leaves a colder clime for the South is more joyous than a young girl who exchanges a Northern for a Southern winter; she fairly bounds with exhilaration, all is so new, so warm, so balmy. Miss Prentiss, with her brother, visited the scenes of his first Mississippi home, and here formed attachments which we shall see were to last for all time.

Another season of Presidential contest had now rolled around. General Harrison had beaten Henry Clay in the Whig convention of Harrisburg. This was a mortification and disappointment to Clay's friends, but it was not long before the old Whigs began to wheel into line, and Prentiss among the number.

The older readers will doubtless remember the grotesque furor of the Presidential campaign of 1840. General Harrison, the candidate, was a native of Virginia, and chief among his noble qualities was the hospitality for which that people is noted. He had been governor of the Northwest Territory, and had fought

and won the Indian battle of Tippecanoe. As a pioneer he had begun life in a log cabin at North Bend, and from there had written to some friend that "the latch-string will ever be on the outside of the door of my cabin." A Rechabite of the Rechabites, Harrison, in the midst of all of his trials, never touched strong drink, and often, when he was old, he used to tell young men that all his early companions indulged in their potations while he abstained, and now *they* were *all* gone before him. His only beverage was *the wine of the apple*, hard cider. When he settled in the country 'coons were of course numerous, but who it was who grouped together the log cabin, hard cider, and 'coons as the battle-cry of the party remains and ever will remain a mystery. The shibboleth of the Democratic party of that day was the people against the bank and a bloated moneyed aristocracy. The Whigs now undermined them in this last, for they had the log cabin itself for which to fight.

With this preamble let me, as a specimen of many others, give a scene which I myself witnessed. I was on a steamboat in the Ohio River (on my way home from college); we fell in the track of a vast concourse of pilgrims, *en route* to a grand mass-meeting to be held in Cincinnati. The river, so to speak, was *covered* with all sorts of crafts, steamers, broad-horns, and scows dotted the stream and drifted slowly down it. On all of them were the "insignia" of the campaign, miniature log cabins, with the "latch-string on the outside of the door," little cider-kegs, with the gourd appendant, 'coons chained to the corner of the cabins; these were generally alive and running about; where the live 'coon could not be obtained a stuffed skin was substituted. The hurrahs were echoed from craft to craft; the very atmosphere was full of jollity. The boats, jammed with passengers, would stop at the chief towns, Maysville, Dayton, Augusta, etc.; at these places the glee clubs would serenade the boat clubs, and the air rang with the chorus,—

"Tippecanoe
And Tyler, too,
And Van, Van, Van,
Is a used-up man."

Our captain, unfortunately just then for his purse, was a known

Democrat; still he followed the crowd, promiscuously landed with the others, and here and there picked up a stray Whig as a waif. To my young mind all this "hallabuloo" looked like foolishness, and Clay sarcastically alluded to the manifestation as froth and drift floating upon the surface of the opinions of an *uprising* people.

We finally reached Cincinnati; the old general himself was there; the crowd was immense, the enthusiasm unbounded; a procession of four abreast was formed at the corner of Main Street, with bands of music. It is said that this solid mass of humanity nearly belted the city, for the head of the column was about to attain the starting-point just as the rear was leaving it. General Harrison, himself much enthused, spoke on that day.

The above brief sketch will give some idea of the thousands of meetings held at this time throughout the borders of the Union.

Prentiss preferred Clay; but believing, as he did, that a great principle lay underneath this uprising, he threw himself, heart and soul, into the contest; besides the great national questions of finance and tariff, another one of infinite importance in our State policy, the Mississippi repudiation, came up for discussion, and he used this with tremendous power before the audiences of other States as a proof of what he believed the demoralizing tendency of the "Loco-foco party."

The intelligent reader will remember that the name Whig was of Scottish origin, and means a driver of horses. In 1648 a party of "Whiggams" marched to Edinburgh to oppose the king and the Duke of Hamilton, hence the name of "Whig" was given to the party that opposed the court; in England this name was transferred to those who opposed the king's prerogative, and was, as all know, assumed by our Revolutionary fathers, and was, at the time of which we are speaking, the name of one of the leading parties of the country.

The name Democratic is, as all know, of classic origin and needs no explanation, but the younger reader may need to be enlightened with regard to the "Loco-foco party," and it must therefore be given briefly. When friction matches were first invented they were called "Lucifer," in compliment to his Sa-

tanic highness, but in process of time the *locus in quo*, where he is supposed to dwell, was substituted in place of his name, and hence they were given the name of "Loco-foco," the place of fire. Now it so happened, according to Wheeler in 1834, according to Worcester in 1835, that the Democrats of New York, one night, held a meeting in Tammany Hall; in this meeting there were opposing factions; one of these, finding itself about to be outnumbered, hastily adjourned and extinguished the lights; the other as quickly brought in candles, ignited their loco-foco matches, lit the candles, called the meeting to order, and proceeded to pass their measures. The Whigs seized upon these circumstances, and dubbed the Democrats "Loco-focos."

I have given the above explanation that Prentiss's speeches hereafter, on the political issues of the day, *may be the better* understood. He ever made a distinction between the simon-pure Democratic party and its more radical wing, the *Loco-focos*; upon these last he poured the vials of his wrath. This explanation will pave the way to the understanding of his exertions in the Presidential campaign of 1840.

It seems marvellous that in so short a time he should have acquired so extraordinary a reputation. He could almost have said, as Byron did, "I woke one morning and found myself famous." Letters came pouring in upon him from different States, with the Macedonian cry of "Come over and help us." New York, Pennsylvania, Virginia, Ohio, Maryland, Alabama, Maine, Louisiana, Massachusetts, and other States called to him, and wherever it was known that he was to appear people, Whigs and Democrats, turned out *en masse* to hear him. He spoke at New Orleans, St. Louis, Chicago, Detroit, Cleveland, Buffalo, Syracuse, New York, Newark, Portland, and last, though not least, as he says, at his old school-boy ground, Gorham.

He passed through the political sky like a blazing meteor, but we can pick up, alas! only here and there an aerolite, a fragment, whose density shows the mark of intense heat, but can give no idea of the brilliancy of the orb in its passage through the sky. He speaks of this canvass to his brother thus modestly: "My audiences varied in number from two to six thousand. I have usually spoken three hours, generally in the open air; so you see

I have been stumping it on a grand scale, no less than that of the Union."

Having swept around the Western and Northern arch, he arrived at his native home, and there delivered a speech. For the first time in his life he had among his auditors his mother and his sisters. True, they had heard of him, but they had never before heard him. Their presence served only to subdue and concentrate his inspiration to a more fervid glow. Says a writer in the "Memoirs":

"The meeting was held in front of the City Hall. Long before the hour had arrived the windows of the hotels, stores, dwelling-houses near by, upon Congress and Middle Streets, were lined with ladies; the high steps, too, fronting the hall, with the adjoining rooms and every accessible door-way and window, were crowned with the beauty, fashion, and matronly worth of the city. The mass of the people were in front of the rostrum erected for the speaker, immediately before the hall. The lights were scattered all around, and the illumination gave a brilliant appearance to the scene. The effect of the lights upon the platform, which only grew brighter and disclosed the speaker more distinctly to the multitude as the early evening darkened into night, was peculiarly fine.

"Mr. Prentiss, conducted by his old friends, made his appearance just as the sun was going down. The instant he was seen ascending the rostrum (for by his lameness he was at once recognized) there was a shout of joyous and heartfelt welcome from every part of the assembly. His college friend, Colonel J. D. Kinsman, introduced him, and again he was hailed with three affectionate cheers, for the feeling which pervaded the vast concourse was something far deeper and more cordial than that of mere admiration for oratorical talent. It betokened a warm personal interest, as well as pride in the man. When the cheering had subsided he looked around upon his audience, his countenance radiant with emotion, and then 'like a man inspired' spoke right on for three hours."

I here transform the speech from the *obliquo* to the *directo* form:

"I thank you, fellow-citizens, for your cordial welcome. I rejoice that I find myself once more among my old friends. The thirteen years which have elapsed since I went forth from you to seek my fortune seems to me but a few days, and in the midst of the pleasant and thronging associations of the past I can hardly recall my thoughts to the weighty errand that has summoned us together. Gladly would I here rest like the knight, and forget for a while that war is raging between the Christian and the infidel. But I must turn away alike from the grateful associations of the past and

the friendly courtesies of the present to remind you of that public opinion which is now weighing in its scales the political destiny of the republic."

He here went into an elaborate exposition of the nature, laws, and effects of the credit system, and continued :

"I admit that the system is liable to serious abuse, but contend that under wise limitations it is a most beneficent system, and has been an inexhaustible mine of wealth to the United States. It is the twin influence of *credit* and *confidence* which has built up the great West to its height of power and industrial grandeur. Armed with these peaceful implements, American industry and enterprise has subdued the wilderness and caused it to rejoice and blossom as the rose."

From this he passed to the currency, capital, labor, and their practical relations :

"There are demagogues among us who tell the poor man, in the very spirit of the arch-fiend, that the rich man is your enemy, and yet how often do we see the employer of to-day become the laborer of to-morrow, and the laborer changed into the employer. This is the legitimate result of our free institutions, and how, in the face of such facts, dare any man to inflame the bad passions of the different classes of society by teaching that there is a natural hostility between them ! The sons of the poor man have actually the better chance in the race of wealth. As a general thing, they first reach the golden eminence. Stephen Girard began life a poor boy, and so did John Jacob Astor. They were the architects of their own fortunes. They acquired their wealth by their superior enterprise. The son of the poor man is more likely to prosper, because honest industry, perseverance, and hope are most likely to be his portion, and these are the mainsprings of success in life.

"The party in power address the 'toiling millions,' as the cant phrase is, just as if poverty in this country were their destiny, a sort of fate from whose decree there is no escape. But poverty is in this country no such Procrustean bed, nor is labor here subject to any such hard necessity. Our institutions are illustrated in the race-course, where every horse is put upon his own mettle. The slowest cannot win the prize ; it belongs to the fleetest. We train our sons like young eagles, to soar aloft, not to flutter about like owls. I say to the laboring man, you have the same chance before you that Benjamin Franklin had. The path of success is as free to you as it ever was to the thousands and tens of thousands whose industry and enterprise have raised them to affluence, independence, station, and honor in the community.

"I never hear these infamous appeals to popular envy and prejudice without being reminded of Satan tempting our mother Eve. As the arch-fiend

“ ‘Squat like a toad at the ear of Eve,
Assaying by his devilish art to reach
The organs of her fancy,’

so do the *Loco-foco demagogues* approach the laboring man, ‘inspiring venom’ and raising ‘distempered, discontented thoughts, vain hopes, vain aims, inordinate desires.’ Nor can I ever witness these attempts of passion and satanic cunning without wishing that I possessed the spear of Ithuriel, that I might touch and unmask the monster.”

From the currency and labor questions he passed to the alarming encroachments of Executive power and patronage :

“The time has come when the foreign missions of the republic, and even the highest judicial stations, are given in reward of mere partisan services. Unworthy servants, whom the people have cast off and consigned to political graves, rise again in newness of life at the touch of Executive favor. The rights of the States are falling a prey to Executive influence. The elective franchise has been trodden under foot at his behest. Look at the outrage recently perpetrated upon the Congressional delegation from New Jersey, a State which has shed her best blood in the Revolutionary struggles for our liberty. The Whig members were sacrificed without a hearing, without evidence, without trial, and this by direct interference of the Executive with the legislative branch of the government. Heaven forbid that such violent measures should ever be repeated. The Union itself could not long survive them.

“It is my deliberate opinion that *Loco-focoism* has done more to break asunder the connecting links, the ties of honor, interest, and affection, which bind together the States of the Union than all other causes since the formation of the government. But here, let me say, I draw a wide distinction between *Democracy* and *Loco-focoism*. I believe the great mass of those who have supported this administration are honest men and suppose themselves to be genuine Democrats. But for the guides who have misled and deceived them I have no such respect. *They* have concocted a system of politics which I term *Loco-focoism*. It is politics boiled down, so to speak, and distilled into a poisonous drug. They have labelled it Democracy, but I regard it as the very essence of political evil.

“Behold, for illustration, the outrage just consummated in my own glorious State. There, where these apples of Sodom are already ripe, the *Loco-foco* governor has declared to the world that Mississippi, the home of my heart, repudiated her public obligations and would not pay the State debt, principal nor interest. This same governor has encouraged forgery by recommending a repeal of the law prohibiting the issue of spurious bank paper. True, the body of the administration party in Mississippi do not sustain these ultra and immoral principles, but the most of their leaders do in act if not by word. They are like the Cornish

wreckers, who hang out false lights to allure and deceive the ill-fated mariner. So do these selfish demagogues delude the people by their false and wicked doctrines. Look not, then, at mere profession. The devil does not always show the cloven foot, but he's nevertheless the devil for a' that. There are false prophets now as there; always have been in the world; take heed, therefore, when men hold up before your eyes the sparkling goblet of Democracy; beware lest there be poison in the draught."

Mr. Prentiss then passed a beautiful eulogy upon General Harrison, his homespun farmer-like virtues, and excoriated the fierce hell-hounds of the administration press for their unwarranted attacks upon the old patriot.

He closed amidst rapturous applause. Cheer upon cheer followed, till the welkin rang with twelve. Three cheers followed for Mississippi, three for Maine, and, to cap the cheering climax, three more followed for S. S. Prentiss.

A few weeks after this, at Newark, he made another speech, which he thought the best of this Northern campaign. It is described by Governor Pennington and Judge Hornblower in the "Memoirs." Both of these gentlemen were men of high culture and great distinction; the one was the then governor of New Jersey, the other was then chief justice of the State; neither, therefore, was apt to be imposed upon by the mere pyrotechnic display of fancy.

"Five thousand people were present. The place was the military common east of the Episcopal church, under the shade of the elm-trees, which completely protected the speaker from the rays of the descending sun. The day was one of those mild, serene, and genial days which often mark the close of a Northern summer. Prentiss's main argument was to point out, in connection with the tariff, the true characteristics of a republican government, and to demonstrate that industry here has its reward and the man of labor his just position.

"While speaking earnestly in favor of the protection of American industry, with his face turned toward his audience on the right, a voice—perhaps of some honest inquirer, possibly of some hostile politician—loudly asked, from the left, if that system would not make the rich richer and the poor poorer. The orator instantly but courteously turned toward the interrogator and said, 'I thank the gentleman for putting the question;' then slowly turning his gaze, with an appropriate and corresponding motion of his arm, as if surveying the stately edifices surrounding the park, continued: 'My friend, I am informed that, much to the honor of your city, those elegant dwellings that adorn this park, and the glittering

equipages standing before some of their doors or now rolling through your streets, belong almost exclusively to mechanics or the sons of mechanics. It is a splendid testimony to the enterprise, skill, and industry of Newark, and enough to gladden the heart of every patriot. But let me tell you that but for the blessed influence of that protection which the government has hitherto afforded our manufactures you who have heretofore worked in your shops would be doing so now, and you whose sires—to their credit be it spoken—were blacksmiths and shoemakers would be mending the old axes and shoes that they made instead of occupying the palace-like dwellings that surround us.' He then quietly changed his position, and, addressing the audience at large, resumed the course of the argument he was pursuing when interrupted by the interrogatory put to him, and finished his address amid the loud and long-continued plaudits of the enlightened and admiring multitude.

"He spoke for three or four hours. The audience stood in solid ranks, and during the whole period every man kept his place, intent only on the orator and joining in the frequent shouts of applause. When he began to speak he appeared to falter and hesitate, but after some twenty minutes this passed away, and from that time to the close it was one continued outburst of manly eloquence. His manner was fine, his language strong and expressive, and he could carry an audience farther with him than any man I ever heard. It seemed as if he held the very hearts of the immense columns before and around at his command. When he rose in the majesty of his noble thought the whole assembly appeared to rise with him, for, after all, the power of the speech was in the sentiments and views presented. There was no tinsel about it, no clap-trap, but it seemed as if the man had an inexhaustible mine of thought from which he could draw at pleasure."

"It was the first and only time," says Judge Hornblower, "that I ever heard him speak, and I expected much from what public fame had said of his professional and intellectual power, but the half had not been told me. I had witnessed many exhibitions of eloquence and mental power in the forum and on the political arena that did honor to the hearts and heads of the speakers, but I have no hesitation in saying, after making every allowance for the excitement of the occasion and my sympathy with his political sentiments, that I never listened with such interest and delight to any other public speaker. Nor was I alone in my admiration, for every one who heard him, however they differed from him in their political affinities, seemed anxious to give him the meed of applause."

Such were the encomiums given by these two great critics, as drawn from memory fifteen years after the delivery of the closing speech of this Northern campaign.

The reader will note that here, for the first time, it began to appear that Prentiss's physical powers were showing signs of yield-

ing to the mighty pressure of his intellectual exertions. Here, for the first time, he seemed to falter and hesitate; this arose from bodily weakness; mind soon triumphed over matter, and he was himself again, but it was a warning that he should rest; genius, however, like the oxygen to a flame in an exhausted receiver, burns till it consumes itself, even though coupled with an iron constitution.

The reader will observe, from these fragments from Portland and Newark that the orator himself was a splendid exemplification of the text from which he was exhorting: that in this republican country the road to fame and fortune were open to the poor. Thirteen years before he had, as it were, left the home-roof a penniless boy, and had been the architect of his own fortune. True, he breathed not a word of this by a fulsome egotism; the orator himself was the living sermon, the *ecce signum*, of the text. The reader will also perceive that underneath the brilliant flashes of Prentiss's copious fancy, that underneath the scathing denunciations of the faults of the Loco-foco party, there lay a substratum of sound good sense, and a yet deeper substratum of sound political philosophy.

At the close of this campaign he wrote to his brother that he was utterly worn out and exhausted, and would have again to flee to the sea for refuge. He took passage on the 31st of August, 1840, in the packet-ship "Auburn" bound for home *via* New Orleans, where he arrived on the 23d of September. Wearied in body and soul, surfeited with adulation, he found that the public still cried, "Give!" "Give!" His name was now up at the mast-head as one of the Presidential electors, and after a rest of only a few days he was once more on the war-path. He sums up the whole matter in a letter to his sister of the 12th of November:

"At length the 'wars are all over,' the election has taken place, and we Whigs consider ourselves in some degree paid for our exertions by the success which has accompanied them. You have already learned, I presume, from the public journals our complete victory in Mississippi. We have carried the State for 'old Tip' by a majority of nearly three thousand. I returned about a week ago after a most arduous and tiresome canvass, and was literally worn out, so much so that this is the earliest moment in which I could muster energy to write a letter. My health

has been good enough, but my faculties of mind and body have been utterly exhausted. I am recovering, however, my strength and elasticity, and shall soon be myself again. I feel as old John Bunyan's Christian did in the 'Pilgrim's Progress,' when the burden fell from his back. I will never make the sacrifices for the public which I have heretofore done." (We shall see further on that he never could resist the patriot's call.) "But for my political engagements for the last three or four years I should have been able to furnish W. and S. such means as they required for their success in business, and long ago been relieved from any necessity of professional exertion. As it is, I will accomplish the result after a while; I am now very busy practising law, and shall have my hands full of business."

In this letter is the glimpse of the dawn of an aspiration for the purer joys of domestic life:

"If I could find a woman I loved and who loved me, and had nothing else to do, perhaps I might follow your advice and marry myself."

It is beautiful to see how affectionately he speaks in this letter of his friends, Mrs. Bodley, Mrs. Vick, Mrs. Smedes, and Mrs. Lake, household names of the city of Vicksburg.

Before leaving the stirring events of the year 1840, I shall now speak of the matters referring to our local State affairs and of Prentiss's action in reference to them. The reader will remember that Prentiss was a member of the Legislature when the Mississippi Union Bank was conceived and brought forth. It will be remembered that the "ayes and nays had to be recorded in both houses in order to pledge the faith of the State." Prentiss's name is not recorded on either side.

The original charter contains forty-seven sections. The first section and the last provides that an institution shall be established, under the title of the "Mississippi Union Bank," with a capital of fifteen million five hundred thousand dollars, which said "capital shall be raised by means of a loan, to be obtained by the directors of the institution." The fifth section pledged the faith of the State, prescribed the form of the bonds to be given to the bank, and the sixth section made them negotiable by endorsement of the president and cashier, prescribing that the endorsement should specify place of payment. The last section prescribed that the fifth be referred to the next Legislature, in

pursuance of ninth section, seventh article of the constitution, and its publication for three months. The other sections prescribe for the organization of the bank, and is stringent as to requiring stock subscribers to secure their subscriptions for stock by giving ample mortgage security.

Against this act Senator A. G. McNutt recorded his vote in the Senate. But it was passed and approved by Governor Lynch, so far as the action of the Legislature could go, on the 21st of January, 1837. It was again passed by the succeeding Legislature. In the mean time McNutt had been elected governor, and the bill was approved by him on February 5, 1838.

This primary charter was in all respects strictly formal and constitutional. But, unfortunately, just ten days after this act was approved an act supplemental to it was passed, containing twenty sections. The first is the Pandora's "box of all our ills": "That as soon as the books of subscription for stock in the said Mississippi Union Bank are opened, the governor of this State is hereby authorized and required to subscribe for, in behalf of this State, fifty thousand shares of stock of the original capital of said bank; the same to be paid for out of the proceeds of the State bonds to be executed to the said bank as already provided for in the said charter; and that the dividends and profits which may accrue and be declared by the bank on said stock subscribed for on behalf of the State shall be held by said bank, subject to the control of the Legislature, for the purposes of internal improvement and the promotion of education." The ninth section empowers the president and directors or managers with ample power to appoint three commissioners "to negotiate and sell *the State bonds*, provided for in the fifth section of the act incorporating the subscribers to the Mississippi Union Bank, in any market in the United States, or in any foreign market, under such rules and regulations as may be prescribed not inconsistent with the provisions of the charter of said bank, *provided said bonds shall not be sold under their par value*, and the commissioners shall not accept any other agency from any other bank." The other sections refer to appointment of appraisers to appraise property of the mortgaging stockholders, appointing additional places for opening subscription books, etc.

This supplemental charter was also approved by Governor McNutt. It was *not passed upon by a succeeding Legislature.*

On the day the books were opened at Jackson, Governor McNutt subscribed for fifty thousand shares of stock in the bank, executed bonds for five million dollars as soon as they were prepared for his official signature, and delivered them to the managers of the bank. The Legislature elected the managers of the bank, and it commenced operations shortly after passage of the supplemental act.

Governor McNutt issued the bonds under the seal of the State to the amount of five million dollars, which were placed in the hands of E. C. Wilkinson, J. C. Wilkins, and William M. Pincard, as commissioners to sell, under power of attorney, properly executed by the president of the bank, limiting sale to par value. On the 18th of August, 1838, five million dollars of bonds—that is, two thousand five hundred bonds at two thousand dollars each—were sold to Nicholas Biddle, payable at the agency of the Bank of the United States, London, at the rate of four shillings and sixpence to the dollar, interest payable semi-annually at same place and date. In consideration, Biddle was to pay to the commissioners or successors five million dollars, lawful money the United States, in five instalments, 1st of November, 1838, 1st of January, 1839, and 1st of March, May, and July,—the first four at the city of New Orleans and the last at Natchez. The contract was guaranteed by the Bank of the United States. The amount was paid as therein agreed upon, and received by the bank as five million dollars,—exchange, at respective dates of payment, on New Orleans at Jackson being worth from five to eight per cent. premium.

Governor McNutt, in his message of January, 1840, pointing out the great abuses of the banks, recommended the repeal of their charters, and sounded the key-note of the coming music:

“The faith of the State is pledged for the whole capital stock of the Union Bank, and the property of all her citizens may hereafter be taxed to make up its losses and defalcations. The right of the people, therefore, to know the conduct of all its agents and the liability of every one of its debtors cannot be questioned. An examination of the list of stockholders of the bank will show that not one voter out of thirty in the State has ob-

tained stock. Should the residue of the bonds ever be sold, the stockholders alone will be benefited by the sales. Is it consistent with the principles of justice? Does it comport with good faith to render the *property and persons* of forty thousand freemen liable to be assessed to raise money for the especial use of thirteen hundred citizens, most of them *men of great wealth, and none of whom have any peculiar claims* to legislative favor?

"The exercise of the repealing power is not in its nature judicial. The same power that grants charters is competent to repeal them. Public policy and convenience authorizes their creation, and if experience proves them to be detrimental, we are required to recull the privilege granted. Severe penalties should be imposed upon banking after the repeal of a charter. The issuing of paper in contravention of the repealing act could be effectually *checked by the abrogation of all laws now in force making it penal to forge such paper.*"

A bill embodying these sentiments was passed by the House and defeated in the Senate. Governor McNutt then issued his famous proclamation, announcing that the State neither could nor would pay the Union Bank bonds, basing the repudiation upon the ground that the *bonds were sold below par.*

This proclamation caused intense excitement. A meeting, presided over by Colonel Bingaman, was held in Natchez; both Poindexter and Prentiss were there. The resolution denounced the proclamation as a most wanton, violent, unwarrantable, and unjustifiable assault upon the credit of our State, our character for honesty, and regard for public and private faith. They repudiated repudiation and denounced the slander upon our honor, and doubted not but that every county in the State would do the same. That the fit prototype of the proclamation, Governor McNutt's recommendation to legalize forgery, was an insult to the Legislature and an injury to the State that must be regarded as infamous by all who held dear the reputation of Mississippi; that the citizens of Adams County repelled the calumny, that they were both willing and able to redeem the public obligations, so far as they might fall upon them, and they were satisfied that the whole State must despise and condemn the allegation of the governor and would vindicate her honor.

Upon these resolutions Prentiss made his first speech, "upholding the honor, dignity, and character of Mississippi" in a manner which entranced the audience. Says the reporter,

"He is an honor to the American nation, in the *morning* of his fame, and long may he live to use those high endowments that belong only to the truly great." It was in this speech that he remarked, "These repudiators say they cannot pay the debt if they would, and they would not if they could, and thus, like a dug-out, they run both ways, either end foremost."

While he was pouring broadside after broadside into the unfortunate governor, some one in the crowd gave an audible hiss. Prentiss paused; in an instant his whole manner and voice changed; pointing with his finger in the direction of the sound, he slowly uttered, "Rome was once saved by the hissing of a goose, but I doubt if this republic ever will be." This brought the house down with a thunder-like clap of applause; the poor offender's head drooped, he sidled out, he mounted his horse, and, the story runs, did not stop till he got home, some ten miles in the country. This speech was delivered before Prentiss's Northern campaign of that year.

The above brief synopsis will give the reader some of the points of the great question which shook Mississippi from turret to foundation-stone and added bitterness to Prentiss's denunciations of what he called the "Loco-foco party."

During the winter of 1840-41, happening to be in Jackson, I called upon him, and was much struck with his look of repose, not to say weariness. His table was piled with newspapers; he took up one after another of these, and, rapidly glancing over each, would throw it aside. His manner was very kind and even affectionate. A night or two after my visit he spoke in the House of Representatives. This speech was, like all his efforts, impassioned and eloquent, but did not thrill me up to my expectations, simply because these were far too exalted, just as his were of Niagara; and his disappointment after his sight thereof was similar to my disappointment after this my first hearing of him as a public orator.

It was his practice generally, in addressing public meetings, to present resolutions, and, when they were read, to speak to them. He did so on this occasion. I do not remember exactly what they were, but their general tenor was one of exultation over the recent Whig victory in the Union, and a call for all men of all

political parties to rally and thus rescue and save the honor of the State. The beginning of his address was one of congratulation upon the glorious success of the Whigs. He portrayed in glowing terms the uprising of the people in all the States, and when speaking of the shout that was ringing from State to State and from mountain to mountain along the circuit of our Union, he capped the climax with his favorite quotation from Byron :

"Far along
From peak to peak the rattling crags among
Leaps the live thunder! Not from one lone cloud,
But every mountain now hath found a tongue,
And Jura answers through her misty shroud
Back to joyous Alps, who call to her aloud."

He then turned to the great question before the State, and said that he was willing to meet the old Democrats as knights worthy of spurs, and work side by side with them, but he would have no affiliation with the Loco-focos, who were seeking to destroy the State,—against them he would wage unrelenting war, etc.

The further narrative of Prentiss's course on this question is postponed to its regular chronological order. It will there be seen how the arguments for and against repudiation, like the California beer bean, grew and multiplied from its own inherent power of accretion.

We must now note Prentiss's appearance in another great case,—that of *Jane B. Ross et al. v. Vertner et al.* reported in 5 Howard, Miss., 305. This case produced great excitement at the time of its trial (1840). Isaac Ross had willed his slaves to the American Colonization Society to be sent to Africa and freed. His daughter, Mrs. Margaret Reed, had willed hers to Rev. Z. Butler and Dr. Duncan, in trust, for the same purpose. The heirs sought to break the will, because it was void, as being contrary to public policy. The point was whether or not it was illegal for the owner of slaves to send them out of this State to a country, there to remain free. Thrasher, of Port Gibson, and Jo Holt, Prentiss's great antagonist, were for the heirs. The briefs in the case are able, but can only be interesting to the

professional reader; we, therefore, merely refer to them as showing great research.

The woof and warp in a man's life are made up of labor and rest, of study and recreation, and in writing the story of that life we must tell of events in the order in which they come, therefore we shall now pass for a moment from Prentiss's sterner moods of duty to his bright ones of relaxation; for the nonce we leave behind his public and professional labors and follow him, in 1841, on a hunting expedition.

Rest and relaxation from his arduous work becoming essential, he joined a hunting-party in the Yazoo Valley. The story runs that, after they had started, they discovered, upon overhauling their commissary stores, that a very important *condiment* was lacking; a squad was immediately sent for the missing article. While awaiting their return, Prentiss climbed up one of those mysterious Indian mounds which here and there dot the valley. Some of the loiterers at its base raised the cry, "Prentiss, give us a speech." "A speech!" "A speech!" was echoed and re-echoed by the party. "Upon what subject?" asked Prentiss. "The rostrum upon which you stand," was the reply. Like an Italian *improvisatore*, he began with a playful sally of wit, warming as he spoke. His imagination peopled the forest with the lost tribe, that mysterious race, the "mound-builders," who in ages past inhabited the country, before even the birth of the aboriginal trees which stand upon the tops of the huge piles. He introduced every variety of character, kings, princes, courtiers, and warriors. He marshalled armies in battle array and fought battles. Going on thus for more than an hour in a vein of philosophical reflection and poetical invention, he imparted a thrilling, almost a real, interest to the imaginary scene.

One who heard him and thought it one of his happiest efforts, afterward related the incident to Colonel Baillie Peyton. The mound itself still stands, a monument without an epitaph. The fleeting speech from its summit woke, for an hour, the solitude of the wilderness and then was lost to memory, save only as to the recollection of the admiration it excited in the hearts of the hearers, who treasured it up as another instance of the wonderful

powers of S. S. Prentiss, who was equally at home in the woods and in the forum.

His mind seemed to be an inexhaustible and ever-gushing spring. I never heard of his failing to respond to a call save on one occasion, which occurred in this wise. He was on a steamer descending the Mississippi. It landed at Rodney, where it purposed remaining a couple of hours. It happened that just then and there the Whigs were holding a meeting. The moment that it was bruited about that Prentiss was aboard the meeting adjourned to the landing, and appointed a committee instantan to call upon him for a speech. After a diligent search through the boat they found him away in the back part of the cabin, deeply immersed in a book. They at once explained the situation and the demand. He tried to beg off, but they would take no refusal, and he at last reluctantly yielded. They escorted him to the bow of the boat, and there, on the bank of the river, stood the crowd to welcome him. He stood before them, and as usual gave his head a shake, then began, "Fellow-citizens." He paused, his head drooped, and slowly shaking it, he continued, with irresistible drollery, "Boys, it's no use; it won't come," and bowing himself back, he retired in the midst of roars of laughter.

I have said that he was inimitable at repartee, and in his bouts of wit with his friends they rarely got the laugh on him. I have heard, however, of one instance where this was the case. He was somewhat given to punning, as most great men are. On one occasion a crowd of choice spirits were on their way to New Orleans; among them Prentiss, Chilton (an accomplished lawyer and literary man, whose sketches of the Vicksburg bar gave him a reputation), and William Henry Johnson, a genial gentleman and planter of Warren County. As the steamer neared the city the crowd were standing on the bow of the boat and were attracted by the immense sheds of the brick-kilns on the bank. Prentiss, pointing at them, archly remarked, "That must be a *mortifying* business." This, of course, was what might be called a *patent* pun, and all laughed with the exception of Johnson, who turned to Prentiss and gravely said,—

"I don't see why it should be mortifying."

"*Mortar-fying*," responded Prentiss.

"Well, *mortifying*," retorted Johnson. "I don't see why it should be. True, it is dirty, but it's like any other mechanical work, the *money* is clean." Here Prentiss turned off, thoroughly disgusted at the obtuseness of his friend, but Johnson continued: "The fact is, Prentiss, you and Chilton are just ruining your intellects in sacrificing sense to sound by your everlasting puns, and I reckon, upon the whole, that this is about the most *mortifying* one that you ever did make." This homily brought out roars of laughter, and the meeting dissolved.

CHAPTER XVI.

AT this time there stood, near the Woodville road, about two miles southeast of Natchez, a plain country mansion, surrounded by the primeval forest, but its natural beauty was enhanced by art and cultivation. I know not whether it took its name from the prison home of Napoleon, but it was suited to the surroundings, and was called "Longwood." This rural home was the residence of Mrs. James C. Williams and her family.

Her daughter, Mary, was then just blooming into womanhood. In the spring of 1841 I attended a convivial party in the neighborhood, and for the first time met and was struck with her beauty, for to her was apposite the poet's description of Ellen Douglas:

"And ne'er did Grecian chisel trace
A nymph, a naiad, or a grace
Of fairer form or lovelier face."

I saw her but a moment, and the vision of beauty passed as a "watch in the night."

It so happened in that same year Mr. Prentiss fell within the magic of her influence. In this rural home, "Longwood," on the evening of March 3, 1842, was gathered a select company to witness the celebration of their marriage. The ritual of the Protestant Episcopal Church for the "Solemnization of Matrimony" is always impressive, but on this occasion it must have been peculiarly so. The officiating minister, the Rev. David C. Page, rector of Trinity Church, was a man of imposing presence and the most eloquent reader of his day. There stood before him, genius offering itself at the shrine of beauty, purity, and innocence.

A handsomer face than that of the groom, or a lovelier than that of the bride had rarely, if ever, appeared before the bridal altar. The deep voice of the one plighting his troth, the tremulous response of the other, and the solemn benediction at the

close of the ceremony, can well be imagined. We shall see hereafter how truly and faithfully they were mutually fulfilled. I have before me as I write, in the bold autograph of the rector, the entry made in the marriage registry: March 3, 1842, Seargent S. Prentiss and Mary Jane Williams.

Immediately after the happy event the bridal party left home on a tour to Washington City. Business as well as pleasure called him to that place, for he now had on hand the prosecution of the Choctaw land claims, and he had to represent the matter before one of the departments there.

Among other friends there he met his old compeer, Wise. The intelligent reader will remember that a great change had taken place in the prospects of the Whig party by the death of President Harrison within a month or two after his inauguration. He was succeeded in the Presidential office by the Vice-President, Tyler. The Whigs, in pursuance of their programme, passed a bill chartering a United States Bank, which bill was vetoed by President Tyler. This produced a profound sensation and split the party. The bulk of the party followed the lead of Clay on the old track, while a section, composed of the States' right wing, clung to Tyler. Wise was one of these last; therefore, when he and Prentiss met, they were on opposite sides of the great political question of the day.

Wise thus touchingly alludes to their last meeting:

"When in Congress he was thought, and he thought himself, rich in the good things of the world. His fortunes had changed. . . . We were then divided in politics, he still adhering to the Whigs, I adhering to Mr. Tyler's administration. He seemed sad and more settled; he was then married, but had to make up the lee-way of immense losses in money. His heart was then evidently scathed by disappointments and his disgust at mankind, whom he before had delighted to trust and confide in. But I hope he was a wiser and better man."

It is probable that the weighty business Prentiss then had on hand gave a seriousness to his manner which impressed his friend with the idea that he was a sadder man than he was when he first knew him. This business was one which related to a number of land claims of great value, in which he was to receive a considerable interest, contingent upon success, for his professional

services. After transacting this and, as far as he could, putting it into a proper train, he set out on his return home. The denouement of this case is told in Baillie Peyton's reminiscences, and need not be here repeated.

The reader will perceive that, although Vicksburg was his home, yet it was, to speak figuratively, merely his *roosting-place*, for, like the humma-bird of the Indies, he seemed ever on the wing; what between riding the circuit, attending the high court, and stumping the Union he had but little rest. Now, however, a new life of joy was before him. The domestic bliss he had so long in secret craved had at last been obtained. He returned to his "Cub Castle," as he had jocularly named his home, and found, thanks to his sister, all in order for the reception of himself and his bride.

He immediately set about to prepare a new home. Mechanics and artisans were employed, and in a few months the penates were moved from "Cub Castle" to a more beautiful home, as its name "Belmont" indicates.* So anxious was he to get into his new home that he moved before it was completed, notwithstanding the din of the mechanic's hammer, and, what was worse, the effluvia of the paint. He had at last a notable housewife and a *true* home, with no clouds resting thereon save those engendered by the cares and perplexities of business and the desperate financial condition of the country. His own debts, too, were pressing upon him, and he could not collect from those who owed him, so, like the brave man he was, he struggled on through his difficulties, soothed and sustained by the noble woman who stood by his side.

We must turn now from the peaceful haven of his domestic life and follow him into the turbid waters of his professional and quasi-public career.

The local question of the day in Mississippi was Mississippi repudiation of the Union Bank bonds. Governor Tucker had been elected governor on the Repudiation ticket in the fall of 1841, and was installed in 1842, as successor to McNutt. In the fall of 1843 an effort was made to form a coalition between

* It was destroyed during the war. It stood on the ridge where Belmont Avenue strikes Washington Street.

the Whigs and Bond-paying Democrats. Among the latter stood the Hon. S. J. Gohlson, Prentiss's former opponent in the celebrated contested election case before Congress.

As early as March, 1843, Gohlson addressed a letter to Prentiss, in which he says,—

"I am anxious to know whether there will be a Whig candidate for governor of our State at the next election. The Bond-paying Democrats here are ready to run Colonel Thomas H. Williams, and he is willing to take the field and meet the Anti-bond question fully, if there is no Whig candidate. I am of opinion this course would more completely insure the defeat of the Anti-bond party than any other course we could pursue. My object is to defeat the repudiators, and I will with pleasure co-operate in the support of any man who can succeed over them. I wish you to see such of your friends on this subject as ought to be consulted, and write me fully. Your friend," etc.

Prentiss cordially endorsed the proposed action. The editor of the *Natchez Courier* was also in favor of it, but other counsels prevailed, and the cause was lost.

A statesman looks not only at the immediate effects of a public measure, but also at its future consequences; he considers it in all its bearings, present and prospective. He scans it not only in its strict constitutional sense, but in its moral light also. He considers not only how it will be received by the actors, but also by the outside spectators. The politician takes a more circumscribed view, and is content if the side he espouses will float him into power. Side by side Gohlson and Prentiss fought together to redeem the plighted faith of the State. Some of Prentiss's old Democratic friends of this section of the country, such men as Colonel Philip Harrison, Thomas Hall, and Jo Dunbar, were with him heart and soul. I remember the honest advice of the first of these three; after passing by all questions about the constitution, he said, "Our duty, boys, is to settle *fair* if we never pay."

I extract from the "Memoirs" the account given by Hon. Joseph B. Cobb of the substance of a convention held at Jackson, June 9, 1843, over which Colonel Bingaman presided:

"Prentiss was a delegate from Warren. At this time every office in the State, from the highest almost to the lowest, was in the hands of the

Anti-bond party, save alone the bench of the High Court of Errors and Appeal. Of this lofty tribunal William L. Sharkey was chief justice. His elevated standing, his eminent talent, and acknowledged ability, his purity of character turned on him the eyes of the whole Whig party of the State as being the most suitable candidate for the office of governor. There was scarcely to be found a single man of his party who was not pressing for his nomination. The members of the convention were nearly unanimous in his behalf, and when the nominating convention was raised no one entertained the shadow of a doubt as to the result of their deliberation. Prentiss was not present at the forenoon session of the convention, being engaged in the argument of a very important case before the Superior Court of Chancery. He had been named as a member of the nominating committee, and, accordingly, met that body at noon. He was surprised, almost deprived of his equanimity, when he found that Judge Sharkey was about to be invited from the Supreme Court to become the candidate for governor."

I was told by Colonel P. B. Starke that the speech made by Prentiss before this committee was a masterpiece of eloquence that would alone have entitled him to the front rank as an orator.

Mr. Cobb proceeds:

"Mainly through his exertions the committee reconsidered their action and brought into the convention the name of another candidate for that high office. This created a perfect furor of dissatisfaction among the members of that body. Complaints and murmurs rose from all quarters of the hall. No one objected to the gentleman who was offered, but nearly everybody preferred Judge Sharkey. During all this excitement, Prentiss, clad carelessly in a plain summer suit, his collar open, and his fine, flowing locks streaming unarranged and almost wildly, sat perfectly calm and silent. The time had not arrived at which he decided to mingle in the strife and assign the reasons for his conduct. At length a member addressed the president and proposed to strike out the name of the person reported by the committee as a candidate and to insert that of W. L. Sharkey. The motion was not even seconded before Prentiss sprang rather than rose to his feet, threw his stick to its accustomed place to support his infirm limb, and advancing energetically to the front of his desk, began to pour forth one of those powerful and overwhelming torrents of eloquence for which he had become so famed. The peculiar sound of his cane as he limped along (a sound which is well remembered in Mississippi, and which never failed to draw universal attention whenever, during his service in Congress, he entered the halls of Congress) at once stilled the auditors into the most perfect silence. Every one could see that the humor was upon him, and that he had been touched by the magic wand of his

ministering genius. He assaulted the motion as a death-blow to the already crippled character of Mississippi. With more than usual skill he drew a graphic picture of the whole army of repudiators, 'with their ragged pirate flag borne shamelessly in the midst of them, advancing in swarms to do their murderous, infamous work.' 'They are Huns, guided by leaders who owned all the atrocious principles of Attila, without possessing his courage or his talents.'

"Alluding to the defeat which the bond-payers had sustained at the last election, he spoke with power unsurpassed against the policy which is proposed to us, 'after having lost the main battle, and been driven back from every post and routed at all points, to draw our greatest leader from the strong citadel of the Supreme Court to encounter an uncertain fate in a hazardous campaign.' This citadel unsundered, 'I hold that the wild beast of repudiation is restrained; at least the last fatal and irrevocable blow on the already prostrate name of the State. Here at least, after having scattered his vile foam and exhaled his pestilential breath in every other quarter, he could at last be muzzled and strangled.'

"He then spoke with deep feeling of the purity, learning, and spotless character of Judge Sharkey. 'And I assert that the honest men of Mississippi cannot spare him from the bench at such a time as this. His court was the last refuge under the inflictions of this worse than Egyptian plague, and they would rise up in one solid mass to protest against his being surrendered, against letting go our only hold to flounder amidst the uncertainties of a political campaign.'

"He said, with an expression of countenance that thrilled the audience, that Judge Sharkey should not be forced to soil the pure ermine of judicial eminence by seeking an engagement with the unclean monster. Still, he continued, it was essential to fight the beast, pestiferous as it was.

"'I have read in Roman history,' said he, 'that the march of a whole army had been once arrested by a huge serpent, whose very breath poisoned the entire atmosphere around it. Regulus halted his columns and decided that safety called for the destruction of the monster, even though many human lives should be the forfeit. If the serpent, as was naturally to be expected, should follow on their march, the whole army would be swept away by the pestilence, and thus, day after day, detachments were drawn out until the destroyer was destroyed. Our march to fame and to greatness as a State has been impeded by the intervention of this vile serpent, repudiation. Its hiss is heard from every hill and through every broad valley of Mississippi. Already its venom has blighted their bloom and freshness, the very air by which they are nourished is corroded with poison, and sure death seemed to be the fate of all who ventured within the tainted precinct. One only spot was safe from its noxious influences, and we should guard closely every avenue of approach rather than open the way for the incursion of the fell destroyer. He *should* be fought by the *subordinates*, the rank and file of the army, but that all America would

curse and ridicule the policy which the adoption of the resolution must force upon the Bond-paying party.'"

Such is the skeleton, drawn from memory by Colonel Cobb many years after the delivery of that speech, which lasted several hours. The effect was instantaneous, and revolutionized the opinions of the assembly.

The mover sprang to his feet and withdrew his motion, declaring, amidst a great deal of merriment, that his only object was to test the sense of the meeting. In all probability but for that speech Sharkey, on account of his great availability, would have been nominated, his services would have been forever lost to the bench, and the political results would have doubtless been the same.

The above narrative illustrates the orator's wonderful versatility. To plunge at once from the dry discussion of an abstruse question in chancery law into a committee where all his friends were opposed to him on a question of expediency, there to convert these, and in a short while to rise in the greater assembly and lift them above the idea of *expediency* to the loftier plane of a higher public policy and convert them to his views in this also, was truly little short of a miracle. "Either one of those three speeches," says a contemporary, "was enough to immortalize the orator."

As a forlorn hope the Whigs and Bond-paying Democrats had united to run for Congress Thomas H. Williams, of Pontotoc, and Jo Dunbar, of Jefferson. Governor Tucker and Mr. Hammet, an ex-chaplain of Congress, were the opposing candidates.

It was at this time (the fall of 1843) that I accidentally fell in with Prentiss, who was on his way to attend the case of *Cowden v. Dobyne* in the Circuit Court of Jefferson County, to be held at Fayette. He was to stop on his way at Colonel Philip Harrison's. I induced him to call, in passing, at my house,—a genuine *log cabin* in the woods. He was at that time exceedingly cheerful and full of wit and pleasantry. Colonel Saunders, a lawyer from Natchez, accompanied him; when I proposed to pilot these gentlemen down the *Branch*, the former dryly remarked that they were "opposed to going into *liquidation* just then."

We parted for the evening. On the next day I was in

Fayette and heard him speak,—the second time I had ever heard him. The old court-house was crowded; Prentiss was evidently inspired; here he was on his old "stamping-ground," around him were the *friends* of his *early* manhood. He walked the narrow rostrum like a caged tiger: his eyes fairly flashed fire. His speech was on the all-absorbing theme. He argued and sustained the constitutionality of the bonds.

He paid a high compliment to the commissioners of the bank who had sold the bonds. They all knew James C. Wilkins and Judge E. C. Wilkinson, "and I should like to see the man," said he, "who would dare to his face impugn Judge Pinkard." He showed that the bonds were lawfully sold by our agents. We, the people of Mississippi, did it, and it was disgraceful in us now by paltry subterfuge to seek to escape.

"I would like to interrupt the gentleman for a moment!" shouted an old repudiator.

"Certainly," replied Prentiss.

"I would like to know if the Whigs didn't vote for that bank, sir?"

"That's the very point I'm coming to," said Prentiss. "Whigs and Democrats, Loco-focos and all, voted for it; but in this, sir, I know no Whigs, no Democrats. It is a question above party; the State faith must be preserved."

He continued:

"I am rejoiced that I shall have an opportunity to cast my vote for Joseph Dunbar." (The reader will bear in mind that this was the first president of the Pleasant Hill Debating Society.) "Some men, they say, are made Democrats, some dyed in the wool Democrats, but Jo Dunbar was born a Democrat." Shout followed shout as he proceeded: "These desperate men, driven to the last extremity, are now avowing doctrines to uproot society itself. The candidates may be honest, but they are mere bobs upon the surface, showing where the big fish were nibbling at the bait below."

Here again he was interrupted by the old gentleman. The crowd grew furious, and shouts rung out, "Down!" "Down!" "Out with him!" But Prentiss never for a moment lost his equanimity. I don't think I ever saw a sweeter smile play upon any one's features than on his just then.

"I beg my fellow-citizens to allow my venerable friend to proceed ; I should be glad to hear him."

The old gentleman was too much excited to make any coherent remarks, and again Prentiss crushed him in reply. This was too much for the old man, and, foaming with rage, he said he wasn't very well anyhow,—had taken a blue pill that morning, and he couldn't and wouldn't stand it ; so out he rushed amid the jeers of the crowd, and Prentiss continued :

"The war now waged against the banks involved principles which would, if consistently carried out, lead inevitably to the destruction of all chartered rights, debts, and public obligations. The doctrine is boldly advanced by these politicians that the bank was created by one generation, and another has come into existence ; the money has been squandered, and therefore this generation ought not to bear the burden of liquidating debts they did not contract, the benefits of which they did not enjoy. Monstrous doctrine ! Admitting the principle, how are you going to apply it ? Who can mark where one generation begins and another ends ? The stream of time is ever flowing ; you cannot separate its particles and say this belongs to one generation and this to another. The life of society is one and immortal ; it cannot thus be broken into fragments. The State itself is immortal, though generations change. Besides, the repudiating doctrine is not true. One generation does have the right to bind another, and does bind it to contracts. How dare we claim and enjoy the unnumbered benefits derived from our ancestors if we repudiate the obligations they impose upon us ? Our liberty, our constitution, our laws, our social institutions, our very roads, bridges, public buildings, all won for us by the toil, sacrifices, or blood of our fathers, how can we have the face to appropriate all these vast benefits and not take the incumbrance which they bring with them ? In truth, every good thing we have is mortgaged,—earth, sea, and sky, ay, the very air we breathe, as diseases and sickness can bear witness. We inherit no blessing, no right or advantage which is not ours in trust and which is not linked to some duty."

There Dobyns was on one side and Filmur Green on the other, both looking up at him ; he alternately swept them from laughter to tears, and when he closed, one exclaimed, "Ain't he the greatest man that ever lived ?" The other replied, "If I could make a speech like that, I'd be willing to lie down and die the next minute." These were, of course, extravagant encomiums, but they serve to show Prentiss's wonderful power over men.

I can truthfully say that the speech struck me as the greatest

forensic effort I had ever listened to ; my admiration of it may have been increased by my partiality for the man, and because my sentiments accorded so entirely with his, but it certainly was a grand effort.

It was during this visit to Fayette that he appeared in the Cowden will case, before alluded to as the object of his visit to this court. This case certainly did "point a moral and adorn a tale." It flew from Chancery to the Probate Court, then to the High Court, then back again to the Probate to be returned to the High Court, where but for an accident of failure to file a bill of exceptions it might have been kept going a little longer.

The case, in brief, was this : James Cowden, a widower, with one son, married the widow of Judge Simpson, who had one daughter, Columbia. Cowden left an holographic will, duly attested and signed, but beneath there was some writing in addition, intimating an intended *pro tanto* revocation. This writing continued down to the end of the page, to an unfinished sentence ; the other half of the sheet was torn off. Whether or not the revocation had been completed and the balance of the sheet torn off prior or subsequent to the death of the testator, was the question for the court and jury to decide. Young Cowden contended that it was no will, because it had been revoked and the revocation mutilated. He was represented by Winchester and Montgomery and Boyd (Prentiss's old chum) ; Dobyms and wife (Cowden's stepdaughter) were represented by Prentiss.

I was not present at the argument, but was told afterward that Prentiss passed a most touching eulogy upon the father of young Cowden, and paid a tribute to the old red clay hills,—the seat of his home. The case was decided against the boy, who, after it was over, approached Prentiss, and, with great emotion, said, in substance,—

"Well, Mr. Prentiss, you have succeeded in blasting my prospects, but the beautiful tribute you paid to the memory of my father almost compensates me for the loss of the property."

It was here that the Hon. Hiram Cassidy, then a young lawyer, afterwards circuit judge, was first introduced to Prentiss. He was a gentleman of high culture, and, like Prentiss, so lame

that, when he walked, he was compelled to use a stick for a support. When the case was over he stood listening to Prentiss entertaining a knot of lawyers with his wit, when, in substance, the following sparring took place. Judge Winchester, the much-loved friend of Prentiss, was the opposing counsel in the case. He remarked,—

“Prentiss, how does it happen that you make your very best speeches when you’ve got *neither law nor facts to support it?*”

Prentiss comically replied, “Some fools in the world think it’s the speech in the case that wins, and where they’ve got such an one they send for me, and I’m forced to speak, for there’s nothing left for me to do but to speak.”

“How is it possible,” continued Winchester, “for you to treasure up and make use, at the proper time, of so many beautiful figures of speech and flights of fancy? You certainly must have the most wonderful memory.”

“I’ll tell you how it is, Winchester,” replied Prentiss. “When I get to speaking and become excited I’m like a little boy walking through a meadow, when he sees a beautiful butterfly, with its gauzy wings of gold, and starts in pursuit, eager to capture the glittering prize. In the race, up springs another and still another, until the whole sky is filled with beautiful butterflies, every new one brighter than the other. It’s so with me; every fancy starts a new one, till in the pursuit my whole mind is filled with beautiful butterflies.”

The last effort Prentiss made in the great cause to sustain the plighted faith of the State was at Vicksburg, on the 6th of November, in defence of the constitutionality of the bonds. He was made the more keenly sensitive to the dishonor of the State from the fact that, being a public man, he had received many letters from the bondholders, among others from the great poet Wordsworth. While the discussion, however, was going on, the ballot had decided it.

The reader will perceive that the arguments of the anti-bonders grew and enlarged by discussion. Their first attack was, that the bonds were sold below par value; but they soon found that that direction was in the supplemental charter, and when they shifted their ground and attacked the supple-

mental charter as being unconstitutional, of course the "par value" clause fell with it.

Among the arguments used by Governor Tucker, when running for Congress, was a very peculiar one. He said that the "seal" of the State, when the effects were being moved from the old State-house to the new Capitol, was lost, a new die was cast, and the bonds were sealed with this new die, that they therefore had *not the seal of the State*. To give point and emphasis to this argument, the ex-governor would exclaim, "Why, fellow-citizens, the State seal is to be an eagle, but just look at this" (holding up the impression); "it's more like a *buzzard*." This would, of course, raise a laugh; but a young speaker at Fayette squelched this argument most effectually. When he came to reply to the governor on this point he faced him, and answered him about as follows: "The governor has told you that the eagle is but a buzzard, but, sirs, whether it be the one bird or the other, it is very certain that the governor himself was wafted into office upon its wings. The very commission which he held for two years as our governor is *stamped by the same seal, the same bird* which he now denounces as the counterfeit presentment of the noble bird which is the emblem of our State."

Here the governor very courteously arose and begged leave to withdraw, as he was not very well. Whether or not he continued the use of the buzzard argument after this I do not know, but the *ad hominem* criticism was certainly, at least so far as he was concerned, a "knock-down argument."

The most potent argument used with the masses, however, was that they were to be *called* upon to pay a debt which they had not contracted, for money which they had not received, and to pay this it might take the poor man's last piece of property.

Ten years after the question had been submitted on the hustings, and decided adversely to the validity of the bonds by the people, a suit was brought by H. A. Johnson, a holder of one of them, against the State, in the proper tribunal, the Chancery Court, and a decree was rendered in his favor. The State took an appeal to the High Court of Errors and Appeals to the April term, 1853. Section 25 Mississippi, 625. D. C. Glen, attorney-general, and W. F. Stearns appeared for the State, and

T. J. Wharton and Daniel F. Mayer, after the decision, filed a petition for reargument. Johnson was ably represented by Messrs. Adams and Dixon.

The counsel for the State made a powerful argument upon the following grounds :

First, that the bonds were to have been issued under the original charter, but this and the others were issued under the supplemental charter ; that this supplemental charter had changed the *identity* of the bank, and the bonds were therefore void, because this supplemental charter had not been repassed by a succeeding Legislature as required by Section 9, Article 7, of the constitution of Mississippi.

Second, that if the bonds were issued under the original charter, they were void, because the people had elected legislators favorable to the pledge of the faith of the State, on the *condition* that the State was to stand as security for the bank, but the bank was first to get mortgage security from the stock subscribers. That after this the State was to loan her credit by her bonds, and the mortgage security given by the stockholders was to be held by her as indemnity against loss ; or, in other words, the taking of stock mortgage security was a *condition precedent* to the issuance of the bonds, and as this had not been done, they were void, and the purchasers thereof were bound to know it.

The court held that none of these positions were tenable, and affirmed the decision of the court below. It sustained the constitutionality of the bond, gave judgment against the State, and the decision still rests a *brutem fulmen*.

A young sapling, wounded on the bark, will ever bear the scar on the rind, outside of the grains that form round the heart of the tree by annual accretion. Thus has it been with Mississippi. Forty years have passed since the wound of repudiation was inflicted, and the scar is still visible. Men may err, but when they pass away their errors are forgotten ; but States, though they change, never die, and their errors, chronicled in history, like themselves, become immortal. The prophecies as to the fatal effect of repudiation on the character and prospects of the State have been fulfilled. A young writer of the day raised his warning while pleading for the State credit, and asked

how they, the people, would feel if an enemy were thundering at the gates of the capital and the State should be without *means* and without *credit*. Years after, this same writer was a member of the Legislature when this *supposed* picture became a *reality*. He then heard a whilom distinguished leader of the repudiators publicly say, "Before I would support such a doctrine as repudiation again I would let my tongue cleave to the roof of my mouth and my right hand *fall* palsied by my side."

Mississippi distinguished herself in the war of 1812. Her leader and her soldiers saved the day at Buena Vista. Her champion raised the victorious flag upon the halls of the Montezumas. Her citizen filled the executive chair of the late fallen Confederate States. Her children's bones bleach on every battlefield from the Potomac to the Rio Grande, and though the cause was lost, their memories are sacredly enshrined in our hearts. In view, therefore, of her glorious achievements, let this her *only error* be forgotten and forgiven.

CHAPTER XVII.

DURING the month of February, 1843, Henry Clay, who had retired from the Senate and was resting preparatory to the great race he was to run, visited the South, and was received at Vicksburg by a public reception. Prentiss being deputed to welcome him, made a felicitous speech, of which we need only quote a few extracts as taken from the "Memoirs":

"Your philanthropy has embraced in its benevolent grasp the cause of human happiness throughout the world; your eloquent breath fanned the flame of liberty as it burst forth simultaneously in two continents. Along the classic shores of Greece the votary of freedom

Still mingles in his grateful lay
Bozzaris with the name of Clay.

Among the mighty volcanoes of the New World, even on the tops of the Andes, your fame has built for itself a nest by the side of the eagles. But your philanthropy has not destroyed your patriotism; you have never forgotten in your regard for other lands that you had a country of your own. It is your true and patriotic devotion which more than aught else challenges our esteem and admiration. Beyond any other statesman you have discarded local prejudices and sectional feelings; your heart is entirely and thoroughly American, and your aim has ever been the advancement of the interest and glory of the whole republic."

After pointing out that Clay would serve as an example for poor young men fighting for fame, he proceeded:

"The highest reward of the patriot is the esteem and regard of his countrymen; this reward you are now enjoying. Station cannot command wealth, cannot purchase it. The spontaneous tribute which has just been rendered to your character by men of all parties fills the measure of public honor. Even that high seat which millions eagerly desire you to occupy cannot add one cubit to the stature of your fame. Think not this is adulation. It is no less the interest than the duty of every country to acknowledge public worth, and we are proud in presenting Henry Clay to our brothers and sons as an example worthy of their imitation, and to the world as a noble specimen of an American

statesman. A large portion of those around you trust your public services are not completed, and that, as the first man in their regard, you may soon occupy the first place in their gift."

During Clay's brief sojourn at Vicksburg he was a guest at "Belmont"; thus Prentiss's unbounded admiration for him as an American statesman was enhanced by the nearer tie of personal friendship. The foreshadowing of public opinion was consummated, and the next year Clay was enthusiastically nominated as the Whig candidate for President.

A new question had been injected into the politics of the day,—the annexation of Texas. Both Clay and Calhoun opposed this, for fear, just then, of foreign complications. Van Buren, too, opposed it, hence his defeat before the Democratic convention, and the consequent nomination of Polk. The cry of abolition permeated the contest at the South; the result of this we shall see. The annexation of Texas was peculiarly popular at the South, because it would restore the equilibrium of the States. General Felix Huston, Prentiss's friend and former law partner, was one of its most zealous supporters, and, in order to accomplish it, sacrificed all his former political prejudices and joined the Democracy. At one time it was falsely reported that Prentiss had done likewise, but he soon came out in a card denying the report.

He at this time was unquestionably at the very acme of his intellectual powers; but, alas! it began to appear that his overtaxed physical strength was now succumbing, and that it could not possibly hold out under the tremendous strain that was put upon it. To use a boatman's simile, the engine was too powerful for the craft, and racked it until it sunk.

The 22d of February, 1844, the anniversary of the birth of Washington, was a grand gala-day for the Whigs of New Orleans, who held a great mass convention at the "Place des Armes." The great chief, Henry Clay, was present, the enthusiasm was thereby intensified. Prentiss made the opening address; the description of it by T. B. Thorpe, one of the most beautiful writers of the day, thus shows its effect:

"The time of trial came and the remarkable man presented himself, the very picture of buoyant health, of unbroken rest. All this had been

done by the unyielding resolve of his will. His triumph was complete, high-wrought expectations were more than realized, prejudice was demolished, professional jealousy silenced, and he descended from the rostrum freely accorded his proper place among the orators and statesmen of the day."

If the public had only been more considerate all might have been well, but, in their enthusiasm, they seemed to forget that they were immolating their idol on the altar of their own *enthusiasm*, and on the night of that same day they called upon him for another speech. His second effort was at the Arcade, and was, if possible, more splendid than the first. The well-spring seemed inexhaustible. Anglo-Americans and French creoles were completely captivated and carried away "by his style of speaking," still the craving taste of the public was not satisfied.

On the next day the convention reassembled at the "Place des Armes," and, forming a procession, marched to the "St. Charles Hotel" to pay their parting respects to Clay, who was about to leave. The procession reached the hotel about noon.

"The streets," says Thorpe, "presented a vast ocean of heads, and every building commanding a view was literally covered with human beings. The great statesman of the West presented himself to the multitude between the tall columns of the finest portico in the world. The scene was beyond description and of vast interest. As the crowd surged to and fro a universal shout was raised for Mr. Clay to speak. He uttered a sentence or two, waved his hand in adieu, and escaped amidst the prevailing confusion. Prentiss meanwhile, evidently unconscious of being himself noticed, was at a side window gazing upon what was passing with all the delight of the humblest spectator. Suddenly his name was announced. He attempted to withdraw from the public gaze, but his friends pushed him forward. Again his name was shouted, hats and caps were thrown in the air, and he was finally compelled to show himself upon the portico. With remarkable delicacy he chose a less prominent place than that previously occupied by Mr. Clay, though perfectly visible. He thanked his friends for their kindness by repeated bows and by such a smile as he alone could give. 'A speech!' 'A speech!' thundered a thousand voices. He lifted his hand. In an instant everything was still, then, pointing to the group that surrounded Mr. Clay, he said, 'Fellow-citizens, when the eagle is soaring in the sky the owls and bats retire to their holes.' Long before the shout that followed this remark had ceased Prentiss had disappeared amid the multitude."

The pageant closed with this his briefest speech on record, except one, which was made at Jackson, when Clay, standing in a carriage for a rostrum, had just finished delivering a great speech. Prentiss, who was by his side, was shouted for. He resisted the appeal and remained quiet as long as possible. Finally the call became so vociferous that he had to rise. Instantly every sound was hushed. "Fellow-citizens," said he, "you can't expect me to take a hand in this game when he," pointing to Clay, "holds two bullets and a bragger and has the age of me to boot." With that he sat down amidst a roar of applause.

Soon after his great speech in New Orleans he left for Washington City, and from there started for a flying visit to Portland. He was met at Boston and besieged for a speech. In compliance he made a characteristic exordium :

"I am not willing to say I am among thieves, but I am quite sure I have fallen in with highwaymen, for as I was quietly passing through the city on my private business I have been intercepted and ordered to stand and deliver."

He then plunged into the discussions of the questions of the hour, and he received in glowing language the thanks of the committee of invitation for his open and manly exposition of the subject. At Newburyport he was again called upon to stand and deliver.

He reached Portland at night, and before breakfast next morning he was waited upon. He tried hard to beg off. "These men," said he, "seem to think it is as easy for me to make speeches as it is for a juggler to pull ribbons out of his mouth." But he had to consent. At the appointed time the large hall of the Exchange was filled to overflowing. The recollection of his efforts of 1837-1840 was upon them, and the expectation was more than fulfilled.

Returning through Louisville, he was again called upon, though worn down by fatigue. Prentice, of the *Louisville Journal*, thus alludes to it :

"He spoke more than two hours, and when we say that his speech was the most profound and logical argument to which it has ever been our fortune to listen, clothed in the purest and most classic language and imagery.

and glowing with the fire of true genius, animated by the loftiest patriotism, we have given but a beggarly description. It was a speech that will long live in the memory of all who heard it, and if Mr. Prentiss had never before said or done anything worthy of notice, had never stood up as the colossal denouncer of repudiation, had never before dropped manna from his lips, this splendid effort alone would place him among the men of the first talents of the age. He uttered great truths, such as public men too often timidly forbear to speak upon. . . . In the name of the Whigs of this city we tender thanks for the instruction and delight which he has afforded us."

Prentiss reached home jaded and worn down by his extraordinary exertions, but, owing to his wonderful recuperative powers, a short rest would generally set him, apparently, all right again.

Shortly after his return from Portland a beautiful episode occurred in New Orleans, whither he had gone on a visit. The better to appreciate this, however, we must turn back a space to his late brief sojourn in his native home. In his "Memoirs" his brother tells us, in substance, that one evening he entered the library and there found Seargent pensively looking over a book of engravings. He turned over leaf after leaf, pointed out the exquisite beauties of each, and expatiated upon the effect of the fine arts, thus pleasantly whiling away an evening.

The visit to New Orleans happened at a time when some of the citizens were endeavoring to raise funds to procure a statue of Benjamin Franklin by the great American sculptor, Hiram Powers. The distinguished American poet, statesman, and orator, Richard Henry Wilde, was appointed to deliver the address for the occasion at a public meeting to be held in Dr. Clapp's church, which was within hearing distance of the "St. Charles Hotel." The evening for the address arrived. Prentiss, with a number of his friends, was standing in the hall of the "St. Charles," when it was proposed to "step over and hear Wilde." He and a few others agreed to do so, and were soon lost sight of by the others. In a few moments these were startled by thunders of applause echoing from the church. One remarked, "Wilde must be warming up; let's go over and hear him." "It must be Prentiss," replied the other, and with that they started over, and soon edged their way through the crowd. The prog-

nostic of the last was true. There stood Prentiss in all his effulgence before the most brilliant audience ever assembled in that city, and literally entrancing them with delight. Says one reporter,—

“As he warmed with his theme he developed the grand idea of the genius of civilization hovering over our land scattering the seeds of knowledge, founding the halls of science and galleries of art. He dwelt especially upon the nature and power of sculpture, showing how the hallowed veneration of the patriot is kindled by the ideal presence of the illustrious dead, whose statues would be as national and household gods to keep alive the spirit of patriotism and appal by their aspect of intellectual majesty the enemy of freedom and virtue.

“He drew a gorgeous picture of Napoleon crossing the Alps, and while he trampled under the political rights of the Italians, pausing awe-struck in the presence of their masterpieces of art. The listener seemed to see the modern Alexander with his steel-clad warriors threading the snows of Mount St. Bernard, gazing from its dizzy height upon the sunny plains of Italy, and then sweeping down to seize the spoils of art. Here he named the masterpieces of art, the remains of ancient sculpture, individualizing each by a few masterly touches and with a splendor of diction that would have done honor to Burke when dwelling upon the sublime and beautiful. His description was indeed the very thing itself, the idea of the sculptor embodied in words instead of marble. There stood distinct, almost as if actually present to the eye, the goddess sprung from the ocean's foam, the same smile upon her lips, untrembling before the god of war. There reclined the dying gladiator, with no consciousness of his dying agony save the memory of his far-distant wife and young ‘barbarians all at play.’ There, too, stood the god of the golden bow; his eye still flashes, his lip glows, his nostril is dilated, as he follows the course of the shaft which transfixes the heart of the python. Winckelmann himself could not have exhibited greater enthusiasm for this noble art. But what astonished his auditors, especially those among them who had a professional acquaintance with the subject, was the number and technical accuracy of his description. Had he been bred to the easel or wrought from his youth in marble he could hardly have seemed more familiar with the details of the studio.

“In conclusion, he spoke with feelings of pride, with which he should visit the galleries of art collected by the wealth and taste of our citizens, and he could not doubt that specimens of art would soon abound where he now beheld so many *lovely* specimens of nature.”

“To have caught up its brilliant scintillations would have been as difficult as to have snatched the meteors as they shoot athwart the sky,” says Dr. Clapp, who noted a rough sketch of the peroration at the time, as follows:

"The most splendid cities, mausoleums, and pyramids must crumble to dust, but the genius embodied in the picture and the statue and the literary page is like the mind of man endued with immortality. The physical forms of Greece and Rome fitted across the horizon like the shadows of a cloud passing over a verdant field in a summer's afternoon, but the productions of her heaven-born artists still live and hold a pre-eminent place in the admiration of the civilized world. They will go down on the accumulating tide of glory to succeeding generations, even to the last recorded syllable of time :

" 'Hall, spirits born in happier days,
Immortal heirs of universal praise,
Whose honors, with the increase of ages, grow,
As streams roll down, enlarging as they flow.
Nations unborn your mighty name shall sound,
And worlds applaud that must not yet be found.'

"The Pantheon of Greece was filled with the creatures of immortal genius. Its deities were the same beings whom genuine poets of every clime and land see in their day-dreams on the ocean's rocky shore or by gurgling fountain, or in the shady grove, or on the mountain's craggy steep, or along the gentle streams meandering through the sweetest charms of rural scenery. Her statues, painting, and poetry have kindled the imagination and touched the hearts of all cultivated nations and ages of the present day. Her mission was to inspire the human race with a profound eternal admiration of the great, the good, and the beautiful. The visions of loveliness which she delineated can never fade, because they are true to nature, and consequently secure to her an illustrious and deathless name.

"As a republic, we possess all the advantages of civil and religious freedom. We have the means and appliances of a boundless physical prosperity. But the American people especially require a more acute perception and lively enjoyment of the refining and endlessly diversified beauties of nature and of art. These would emancipate them from the dominion of those gross, sensual indulgences which so extensively prevail in the United States under the name of amusements or necessary recreations. Our sons, familiarized from childhood with the exquisite miracles of superior genius, would grow up enabled to comprehend and feel the loveliness and grandeur that pervade the whole creation, and which in vain arrest the notice of the illiterate and vulgar. In the training of youth nothing is more important than to excite in them a lively relish for the entertainments of taste. A cultivated sensibility to the elegant and grand is of itself almost sufficient to inspire a young man with the noble spirit of patriotism, a passion for true glory, a contempt for all that is mean in principle and conduct, and a profound admiration of everything truly great, immaculate, and illustrious. Let it be remembered, also, that the enjoyments which arise from the delicate perception of the beautiful are congenial with the tenderest and holiest sentiments of religion, and are a foretaste of that refined, un-

imaginable bliss that awaits the good in the fair and glorious mansions of immortality. Let us rest assured, then, ladies and gentlemen, that by furthering the object for which this meeting is called we shall at least contribute our mite towards the promotion of that social refinement, peace, order, and morality that are indispensably necessary to perpetuate our civil and religious liberties."

The above is but a meagre memorandum of the close.

"The orator," continues Dr. Clapp, "was most modest and unpretending in his manner. He appeared to be quite unconscious of the effect he was producing on the minds of his audience. His periods of ardent and glowing diction, his rich, original, and beautiful figures, flowed from him without effort. He seemed to speak from the impulse of a superior power that he could not resist. I have listened to the most distinguished orators on both sides of the Atlantic, but never, before or since, witnessed an outburst of such profound, original, and impressive eloquence."

Thus it seems that this wonderful speech, upon a theme so foreign to the hard, dry subjects that occupy members of his profession, was, in fact, the floating fancies of his mind as he looked over the beautiful engravings in the library at Portland, and had been put to sleep in his memory till now, when, at his bidding, they awoke to charm his auditors by their beauty.

During his absence from Vicksburg a painful affair occurred, which gave rise to a report that he had been killed in a duel. The editor of the *Sentinel* had made a severe attack upon Prentiss in connection with some other party. Major Downs, a devoted friend of Prentiss, thinking that Mr. Roberts, who was a responsible gentleman, had had something to do with the attack, addressed him upon the subject. This led to a correspondence, which resulted in an hostile meeting, and Downs was wounded. This is but one of the many illustrations which prove how deeply Prentiss's friends were attached to him. The devotion of this young man lasted while he lived. A few years after this, when about to die, his last request was that a lock of his hair should be taken to his illustrious friend, as a memento of his undying affection. Such incidents as the above in the lives of the great are worthy of being recorded, as showing the purer and nobler elements of our nature.

On Prentiss's return from New Orleans he was met by a flood of invitations from all parts of the Union to address the people.

The older readers will remember that the great Presidential campaign of 1844 was a battle of giants. The Whigs had lost the fruits of their victory of 1840 by the death of President Harrison. The Democrats had gradually regained their ground, and now the two parties were nearly equally divided. The Whigs had discarded the clap-trap, not to say *'coon-traps* of the "Tippecanoe and Tyler too," and now addressed themselves more to the intellect of the people. Twice had their great leader saved the Union, and he was hailed as the noblest specimen of the American statesman, and as a man of world-wide reputation. The following toast, given by a distinguished Democrat, will illustrate how he stood with the opposite party: "I propose Henry Clay, the idol of one party and the admiration of the other."

Although many of Prentiss's invitations to speak were from ladies, he was compelled to decline the majority, only accepting a few; among these, the first was to attend, in the fall, the great meeting at Nashville, Tennessee. The importance of winning that State, the home of the candidate, James K. Polk, is best given in the letter of Governor James C. Jones to Prentiss, of July 13, 1844, which I copy from the "Memoirs":

"This is the battle-ground of the nation, and I know, my dear sir, it is incompatible with your generous nature to refuse to come to the rescue. All eyes are now turned to Tennessee. It is not my habit to flatter, and if it were, my appreciation of your character would forbid its attempt with you, but I must say in all candor and truth that there is no man living who would be so kindly and cordially received in Tennessee; no man living can command so large a crowd as yourself. All wish to hear you, particularly as Polk is a candidate. Then come, come for your country's sake."

Prentiss left Vicksburg in company with a committee, and his entry at Nashville is thus described by Governor Jones in the "Memoirs":

"The occasion of his visit was one of unusual interest. It was a time of great excitement. The distinguished men of almost every State in the Union, of both political parties, had previously been with us. The fame of Prentiss had preceded his coming. The universal solicitude to see and hear him amounted to an enthusiasm intense and painful,—thousands upon thousands were assembled eager to gratify this desire. I was among

the few of our citizens who had heard him and enjoyed his personal acquaintance.

"The boat upon which he came up the river reached the vicinity of the city in the night. Repairing thither early in the morning, I found Mr. Prentiss deeply impressed with a sense of the magnitude and importance of the occasion and painfully alive to the responsibilities that attached to him; I never before saw him manifest half so much anxiety. He seemed to think his reputation was at stake; he was to stand where Clay, Cass, Crittenden, and others like them had stood; he was to appear before thousands, who had come up from nearly half the States of the Union. His whole demeanor indicated a deep and solemn feeling of the fiery ordeal he was called upon to pass; he also spoke of it to me with the utmost concern. Loving him as a brother, I sympathized fully with him and felt the greatest solicitude for the result.

"When he reached the city he was met by a great multitude on the shore and conducted to one of the hotels, where he was welcomed, and where he made a short but eloquent response. From the hotel he was conducted to his quarters, the private residence of Mr. Morgan. This was the (20th of August) day preceding the meeting of the convention. I visited him often during the time that intervened; I found him still anxious and thoughtful, more so than was usual with him." (Doubtless, as Scott once said of the poet Campbell, he was afraid of the shadow of his own great fame.)

The letter proceeds:

"When the hour arrived I called to accompany him to the ground. The procession was imposing. The crowd almost innumerable, with banners, pageants, music, and all the other 'pomp and circumstance' of a Presidential election campaign. The scene was beyond measure exciting. Mr. Prentiss was quiet, thoughtful, and somewhat melancholy. He seemed to feel as one who had a mighty work to do and was resolved 'to do or die.' The convention assembled. The people gathered eagerly with anxious countenances around the stand from which the address was to be delivered. It was a memorable occasion, one I can never forget. It was a moment to me of most painful excitement,—you know something of the feeling of one friend for another under such circumstances. The time came; he arose calm and collected. The interest of the vast assembly was so intense that it seemed you could see and feel it; that it was something material, something that could be touched. *He had not completed his first sentence before the agony with me was over.* I knew that *all was well, my friend was safe.* He entranced the immense crowd, that was estimated by acres, for about two and a half hours. The applause was terrific. It would be impossible at this late day (seven years after) to give even a tolerable outline of his speech, but the argument, sentiments, illustrations, manner, were alike admirable. The effect was overwhelming,

and his few friends who were accustomed to hear him felt that it was the best effort of his life,—a monument in which he might securely rest his fame. But so captivated were his hearers that no entreaty was of any avail; they were unwilling to disperse to their homes until they had again heard that manly, eloquent voice that so thrilled their souls,—the music of which still lingered around their hearts like the expiring strains of some enchanting melody.

"It was decided that he should again address the convention at night in the Court Square. And here, in my judgment, did the gifted orator place the cap-stone on the pyramid of his fame. I have heard renowned orators. I have been transported with visions of fancy and hope. I had heard S. S. Prentiss, and thought I had heard him do all that man *could* do. But the most magnificent display of intellectual power, beauty, and eloquence that I ever heard was reserved for this occasion. I confess that I was a great admirer of Mr. Prentiss, but I feel certain that my feelings do not mislead me in my judgment of this speech. Friends and political opponents all join in tributes of praise and wonder in memory of the splendid genius which shone forth on that night.

"I accompanied him to the ground. The square was crowded with an immense assembly of gentlemen and ladies. He opened his address with exceeding beauty, and at each step seemed to attain some greater height, until all minds, hearts, and imaginations were carried captive at his will. In the midst of this transcendent effort he was taken with a *stricture of the chest*, to which he was *subject*, the result of *over-exertion in speaking*. He stated to the audience his indisposition, and expressed his regret that he could not conclude his address. The voice came up from thousands of sympathizing hearts, 'Sit down and rest.' 'Don't quit. We will wait on you.'

"Such was the solicitude manifested to hear him further that he was compelled to yield to this suggestion." (As he fell back in the arms of Governor Jones, apparently fainting, Jones exclaimed in his enthusiasm, "Die, Prentiss, die! you'll never have a more glorious opportunity.")

"After sitting down for a few moments the attack passed off or abated, whereupon he arose and continued his address with undiminished interest to its close. And with it closed, I repeat, the most consummate exhibition of oratory which I ever witnessed, and, should I be spared to the most venerable old age, I never expect to hear it equalled."

The above rhapsody, to be duly appreciated, must be coupled with the remembrance that Governor Jones himself was one of the most brilliant orators of his age. He was a man of great power, and twice had beaten Mr. Polk for governor of Tennessee.

Prentiss himself, who was never unduly elated by his success,

seems, on this occasion, to have been *satisfied* with himself. A few days afterwards, while the applause had died into an echo, he wrote to his brother :

"We have had a glorious convention, far exceeding in numbers anything I ever saw. My own opinion is that there were forty thousand people present. It is admitted that this convention exceeded in number by one-third the great one of 1840, and to the same extent the Democratic convention of the 15th. Altogether it was the most magnificent affair I ever witnessed. I made the opening speech, and another on the next day. I think both were *good* speeches, I mean as compared with my other efforts. I do not think I have ever spoken better, taking into consideration the object and circumstances. As far as public estimation is concerned I have no cause to complain. They heaped compliments upon me till I am almost crushed beneath them. My reception has been more than kind, it has been enthusiastic, and if I find all well at home I shall not regret my trip."

Thus, like a victor crowned, he returned to his dear home, "Belmont," and carried his trophies back with him to gladden their hearts. As soon as he reached there he received another summons from his old "stamping-ground," coupled with an entreaty from the ladies to "come." Just fifteen days after the great speech at Nashville Prentiss stood forth once more before a Natchez audience.

The 5th day of September was a memorable one for Natchez. It was intensely hot and dusty. There was held a grand mass-meeting, "terrible as an army with banners," each club bearing its own, with all sorts of patriotic mottoes. The barbecue alone was gotten up at a cost of six thousand dollars. The most remarkable object, however, was an immense ball, twelve feet in diameter, marked off into sections, like an orange. On each section was the name of each of the various States, with a motto. All of these were appropriate, *except the one for South Carolina*, which, to say the least of it, was in very bad taste. It read, "Hemp for Traitors." The Whig party was intensely Union, and South Carolina was intensely "States' rights," therefore the individual or individuals whose task it was to get up the mottoes unfortunately selected this one. I cite this as a reminder of how bitterly party spirit raged in those days. It is said that this ball was paraded at other meetings, and that when it reached the

Alabama line some determined men met it and vowed it should not cross the line with that motto upon it. The justice of this criticism was acknowledged, and another more appropriate motto was substituted for the gallant Palmetto State. I give this as "hearsay."

From this digression let us return to the meeting at Natchez. William J. Minor was marshal of the day. The various clubs made their rendezvous at the proper places, and in due time fell into line. Headed by music the procession wound its way out of the city to "Minor's Woods," just back of what is now the "Devereux Hall Orphan Asylum." The ground was a natural amphitheatre, shaded by the primeval oaks of the forest; at its lower extremity stood two majestic oaks close to each other and forming a natural arch, between these trees was erected the rostrum for the speakers. Several orators had been invited, William and George S. Yerger from Jackson, Patrick Tompkins from Vicksburg, Mazereau from New Orleans, Smilie from Amite, and others; each, of course, had his place assigned in the programme.

After a young orator, Lavin Mathewson, had presented a banner from the ladies to the Natchez club, divine blessing was invoked; then William Yerger discussed the political topics of the day with ability, and was followed by James M. Smilie. It was arranged in the programme that Mazereau, a distinguished invited guest, was to succeed Smilie, but Prentiss was accidentally seen by the crowd, and immediately the welkin began to ring "Prentiss!" "Prentiss!" "Prentiss!" The president, Mr. William Bisland, stepped forward and begged the audience to be quiet, stating that the next speaker would be announced. This was met by a deafening shout of "Prentiss!" "Prentiss!" There was a brief pause for consultation, when, finding the call irresistible, the president at last gave way.

I can see Prentiss now in my memory as he stepped forward on the rostrum. He had a way, as I have before said, of shaking his head when he began to speak, as though to give force and emphasis to his idea. There was a barely perceptible lisp in his voice, and his "Fellow-citizen" was pronounced as though "citizen" were spelled with an "s." Lifting his eyes to the

foliage of the canopy overhead and gazing around upon it, his exordium began by an invocation to the sylvan dryads that to his poetic imagination peopled the surrounding air. Then turning gracefully to the ladies who were present, he passed a beautiful compliment, "Who could withstand the battery of their bright eyes? they were double-barrelled cannon that could always sweep the field and come off conquerors." He then plunged into the causes of the mighty upheaval of the nation now. The rain-drops from ten thousand and thousands of hills had fallen and flowed into streams, these streams into rivulets, these rivulets into the rivers, and now swelled the current into a *mighty overflow* of public opinion. He was not there to discuss the ordinary topics of the hour. The Whigs believed that tariff and banks and internal improvements were best for the interests of the nation, but the people could get along without these. He was there to discuss the philosophy of our government.

He drew a distinction between the *old Democratic party* and the *Loco-foco party*; many of the former were honest in their convictions and as patriotic in their sentiments as he or any other person was, but the *Loco-foco party* with its leaders, under the cry of "To the victor belongs the spoils," were for uprooting all distinction and levelling all classes to the same level. This was contrary to all philosophy, political and natural. Nature herself was built upon inequality in order,—the flower in its beauty was not equal to the oak in its strength; so it was with men, some were born with medium, the other with brilliant, talents; these last were to instruct and guide the other.

The *Loco-foco party* under the cry of the people's rights were uprooting all our political institutions, but he was for holding them within their constitutional restrictions. They were not omnipotent, but must be controlled and governed by the spirit of their own fundamental law.

This spirit of lawlessness had raged through the demon of *Loco-focoism*. It had already endeavored to upset the chartered government of Rhode Island. It had blasted the reputation of our own State by repudiation, and upheld the infamous doctrine that one generation could not bind another; the climax of his impeachment was that the first great *Loco-foco* was the

devil himself, for he had initiated the doctrine in heaven by rebellion against law and order there.

He contrasted the two candidates now before the people for their choice, and after paying a high eulogium upon Henry Clay, with withering scorn he turned and said, "And who is his competitor?" An ordinary man who owed his notoriety to the fact of his being an attaché of General Jackson. "The old war-horse had dashed through the crowd of common men, and when he emerged James K. Polk was found, like a cockle-bur, sticking to his mane."

As he was dilating on this theme, a Democratic gentleman was sitting near me and remarked, "He is getting down to his own personal feelings," and so he did. He said while the Christian religion taught us to love our enemies and do good to them which despitefully use us, he admired its beauty, still he could not apply the maxim to States which had been wronged. It was their high duty to resent an injury. He did not see how Mississippi, consistent with her honor, could vote for the man who had wantonly once deprived her of her right of representation.

He was careering on, now indulging in the loftiest flights of fancy, now sinking to playful sarcasm, and again rising to hurl denunciations upon the leaders of Loco-focoism, when suddenly his articulation faltered, his chest heaved as he struggled to give utterance to his thoughts, and he fell, just as he had done in his Nashville effort. Great was the consternation, but he soon rallied, and again proceeded to the conclusion.

The enthusiasm was tremendous during the delivery of this speech, which occupied about three hours. One young man was so mesmerized that he kept his eye fixed upon Prentiss, and his body swayed to and fro in unison with his gestures. Every now and then Mazereau would half rise from his seat, and, clapping his hands, would mutter in his patois, "Wonderful, wonderful!" The Rev. Dr. Paige whispered to his companion, "Who can doubt that men are sometimes inspired?"

There were some amusing incidents too. Side by side among his auditors sat his two old friends, Tom Hall and Colonel Philip Harrison, both of whom were Democrats, both "Hebrew of the Hebrews." When Prentiss was pouring his broadsides into the

Loco-focos they could not exactly see the difference. Tom Hall would mutter to Philip Harrison, "Just listen to that d—n fellow! By G—d, I can't stand it! Let's go take a drink." Away they would go and wet their whistles. By the time they would get back Prentiss would burst out with some of his grand sentiments, and the old friends would join in the applause. Again Prentiss would veer around to hurl his anathemas upon the hated Loco-focos, and again the old friends would "rile" and swear they could not stand it, and go off for another drink, but they would again return under the irresistible spell of his fascination. The fact is Prentiss never allowed his political differences to interfere with his private friendships, and, while he was unsparing in his denunciation of what he conceived to be corrupt principles, he was ever willing to concede the right, without impugning the honesty of others who differed from him.

When he closed a deafening roar arose from the multitude, who were about to leave, consequently the Rev. Dr. Paige delivered the benediction to but few listening ears.

This speech, as a forensic effort, excited unbounded enthusiasm, but as a *politic* effort it was not effective. Assuming that all speeches, in any cause, are intended to strengthen the convictions of some, to convince others of their errors, and to gain converts, denunciation is a recoiling, if not a dangerous weapon. While this speech, therefore, was good as to the two first objects, it was doubtful as to its good effect in the last. For want of a just discrimination it wounded the feelings of some of his Democratic friends, while it exasperated some of his enemies. It was misrepresented and perverted, and while the Whig press glowed with eulogy, the Democratic press fulminated its anathemas, even descending to personality, some of them comparing Prentiss to Mirabeau.

A few weeks after the delivery of the speech I heard a distinguished Democratic orator at Fayette allude to Prentiss in this style, "I have a friend in Italy," said he, "who is an artist. He writes me that he is going to make his mark on one subject; he is going to immortalize himself in his conception, on canvas, of 'Satan reproving Sin.' I shall write him to drop the study of the old masters, to lay them aside and come home, and take

S. S. Prentiss lecturing on morality as the model for his subject."

The ground-swell of the great meeting was kept up the next day, and after the orators had explained to their Democratic hearers that they had misconstrued the temper and arguments of Mr. Prentiss, several other addresses were made at the courthouse. Among these speakers was Etienne Mazereau.

Ere the great ebullition engendered by Mr. Prentiss's speech had subsided I met him. He was brimful of pleasantry with the friends who flocked around him, but to me he looked jaded and worn by his too great intellectual exertion. The spot made classic by this great event has been changed since then, the magnificent forest has been swept away, and the amphitheatre is now a garden, cultivated by the orphans of the "Devereux Orphan Asylum."

It would have been well had Prentiss been warned to take some rest, but he seemed fated by being *fêted*. Early during the month of October another grand mass-meeting was held at Rodney, a little town in Jefferson County, situated on the river, about forty miles above Natchez. The speaker's stand was placed midway up the hill-side, just below the Presbyterian church. Prosper K. Montgomery, Prentiss's whilom fellow-member of the Legislature in their younger days, was the president of this meeting. I have forgotten who were the other speakers on that memorable occasion, but here, as at Natchez, the cry was raised for "Prentiss!" "Prentiss!"

He was evidently deeply affected, for it was in this county he had begun his career in Mississippi, and here he had formed his deepest and most lasting friendships. His speech at Natchez had been grossly misrepresented and perverted, and he denounced his slanderers in severe terms. "They have waited," said he, "until my back was turned, and had begun their attacks when I was so far away that I could not even kick at them."

He denied that he had impugned or attacked the honesty and integrity of the people of the Democratic party. Some of the dearest friends of his life were gentlemen of that party, and far would it be from him to throw an insult at them. But he did attack and arraign their leaders at the bar of public opinion.

His great effort seemed to be to paint the glories of our whole

country and instil a spirit of patriotism. From the rock-bound coast of New England to the waters of the Gulf of Mexico we had all the elements of greatness,—fruitful fields for the products of the tropics, and all through the temperate zone. Our mountains abound in iron, copper, lead; their very sides are “*calcined*.” Here he checked himself, for he saw he had used the wrong word, a thing he seldom did, then continued, are *carbonaceous*, and ribbed with coal to warm our firesides and smelt our metals.

Abhorring everything like duplicity in politics, as in everything else, when he came to discuss the question of the annexation of Texas he held in his hand two pamphlets. They were the arguments of his old law tutor, the Hon. R. J. Walker. One of these was intended for the South, showing that it would strengthen the pro-slavery element, and the other had an addendum addressed to the anti-slavery element of the North. I have forgotten the exact words, but the substance was, “And is slavery never to cease? It can only be by extending our territory to the *free* republic of Mexico, and there it may escape by a sort of political evaporation.”

Prentiss exposed the gross duplicity of these two pamphlets from the same author, and rising to a grand climax, he dashed the two together. “I wonder,” said he, “that, like the acid and alkali, they do not effervesce when they come into contact.” And with that the pamphlets fluttered to the ground.

He made a powerful address to the young men, who now had for the first time an opportunity to flesh their political maiden swords for Henry Clay. As he said this I heard one exclaim, “Here’s one who is going to do it.” And all around me I heard the echo of the same pledge.

Thus Prentiss was carrying the vast multitude with him, when suddenly he was seized with a stricture of the chest, a similar attack of which had felled him at Nashville and at Natchez. After struggling a few moments to continue, he begged the audience to allow him to suspend, saying he would conclude after dinner. This proposal was answered by the shout, “We will wait on you!”

Dinner was soon despatched. After it there arose a fierce altercation as to the abolition sentiments of Robert J. Walker.

One gentleman asserted that he believed him to be an abolitionist. Another said, "No man shall make that assertion in my presence." "Don't dare me," replied the other. The crowd began to close around the disputants. Just then the chairman passed between, and in a loud voice said, "The meeting will come to order." In the twinkling of an eye the disturbance was quelled. The young reader cannot appreciate the danger which was averted, for in those days to call a Southern man an abolitionist was an unpardonable insult.

Prentiss, refreshed, once more took the stand. He enchained the vast assembly for an hour longer, and as the sun was setting behind the lowlands of Louisiana he turned, and, looking upon it, in a voice of plaintive melody concluded, "I see the glorious orb of day is setting, and I am admonished to bring my remarks to a close. May we all, when life's duty is done, like him, thus sink peacefully to rest, without a cloud to dim our vision."

The political effect of this effort was far more powerful than that of the one at Natchez. It set him right, too, in the opinions of those Democrats who were his personal friends, and he emerged from the smoke of the slander more popular than ever.

I saw him during the evening, after the speech was over; we exchanged a few words of pleasantry. Alluding to himself, he said he was "like a weak horse going down-hill, when he got started he could not stop." He was always kindly affectionate and pleasant towards the young men of his acquaintance. His look on that evening was exceedingly haggard and worn down, more so than it was at Natchez. I felt then that the people were sacrificing their idol, that no mortal man could stand up under such a tremendous intellectual strain as he was continually called upon to make. And yet, strange to say, a few weeks after this he met the people at Jackson in a mass convention, presided over by his old friend, John W. King, who had stood by him in the Chickasaw question. A writer there says of Prentiss that he "was in the zenith of his glory." The *Vicksburg Whig* thus describes this great speech, as copied in the "Memoirs":

"He set out by explaining the various forms of government, monarchical, republican, etc., and showing the conditions under which alone a people can wisely govern themselves. In this part of his speech he illustrated in a

very beautiful manner the necessity of knowledge and general education in a republic like ours. He then passed to the protective policy, explained its operation, and contended that if any interest in America was more benefited than another by the tariff it was the cotton-growing interest of the South. He earnestly deprecated those invidious distinctions which the Loco-foco leaders attempted to draw between the North and the South, and showed in what a miserable and helpless plight the South would find herself if the Union were dissolved. . . . But when he spoke of his intention to leave the State, that this was in all probability the last political speech he would ever make in it, the effect upon the feelings of the audience baffles description. The eyes which a few moments before beamed with delight at his burning eloquence now became dimmed with tears. A solemn gloom spread upon every face, and when he bid his old friends and admirers a kindly farewell, even those whose political differences had long estranged them from him, but who still loved their State, could not conceal their regret that it was about to lose one of its prominent ornaments. This was the first time that we ever witnessed thousands shed tears at a political meeting, and when he closed the audience sat perfectly motionless. Although dinner was announced not one moved, and not until the president called upon the glee club to sing a song did the audience recover from the gloom which the closing remarks had cast over them.

"We have heard many speeches and praised them, we have read many which we thought could not be excelled, but Mr. Prentiss spoke at this time as no other man that we have heard or read of ever spoke. It seemed as if all the gods had contributed to form him, and that the present occasion was set apart to call forth all their gifts. Many a time have we sat and listened to him with delight and felt anxious to bestow upon him our humble meed of praise, but would curb our inclination lest what we considered stinted justice might call forth the vituperations of the unscrupulous and depraved party organs. But now that he is soon to depart from us we may at least join our humble voice to that of more competent judges; yet our joy at his greatness is dimmed by the recollection that we are soon to lose him. We feel, like thousands of our fellow-citizens, Mississippi is about to part with her most precious jewel, whose value cannot be fully estimated until it is gone; yes, the Whig party will lose the most able exponent of their principles, the bar its brightest ornament, and the social circle its very life and soul."

At the close of the canvass of 1844, Mr. Prentiss made a powerful speech to the straight-out Clay Club in defence of the policy of protecting domestic manufactures by just discrimination in regulating the tariff. The speech was reported by his friend, Hon. William C. Smedes, one of the most distinguished lawyers of his day, and is given in the "Memoirs," with the

explanation of the manner in which it was reported. On reading it to Mr. Prentiss the next day, Mr. Smedes says, "He highly commended my *diligence*, but remarked that it was not such a speech as he would have made on the subject to a different audience. Of course," says Mr. Smedes, "in the mode of its preservation it has lost most of the richness, fire, and beauty of the original." The meeting was enthusiastic, enhanced by the unexpected advent of a club from Jackson, with "beautiful banners, transparencies, torchlights, and martial music."

"Mr. President, ladies and gentlemen:—I am gratified to see so numerous and respectable an audience assembled upon this occasion. And especially to the fair portion of my auditors do I feel under obligation for gracing this place and honoring me and those before whom I appear with their presence to-night. But I am afraid they will be disappointed. I am afraid they will not meet, in the character of the topics I propose to touch upon this evening, what, perhaps, they expected. My opponents, I know, have given me a reputation for mingling with my political discussions severe and somewhat bitter denunciations of themselves. In the intellectual feasts which I am supposed to serve up on ordinary occasions the condiments and spices are said to form no inconsiderable part of the banquet. At this time I shall mingle neither salt, pepper, spice, nor vinegar with what I may offer to you. I shall discuss one of the great questions upon which the two political parties that now divide this nation have taken contrary positions. I shall lay before you certain statistical facts and make certain deductions from them touching a subject in which, Mr. President, you and the association to which you belong, as a portion of the mechanical and manufacturing population of the country, are especially and most deeply interested. In the consideration of this truly great question, involving, as it does, vital and permanent national interest, I shall, I trust, take no position and indulge in no remarks that do not properly belong to it, and that may not be listened to, if not with profit, at least with candor and attention, either by Whig or Democratic friends. A portion of the Loco-foco press have, I am aware, made most gross and slanderous statements respecting the character of the political addresses I have had the honor to deliver during the present canvass. They say I never make a speech in which I do not abuse and insult every Democrat who attends. The charge is utterly false! It has never been my custom to abuse Democrats. I have spoken often in this city, and defy any man who ever heard me to say that I have abused the great mass of the Democratic party. On the contrary, I have always declared my belief that they were honest, that they wished well for their country, but were misled, misinformed, and mistaken. That corrupt leaders, influenced only by selfish and personal views, were guiding them astray, I have said often, and shall ever say.

Their principles I have abused and will abuse. For they are, in my opinion, ruinous to the best interests of the country, destructive, if ever carried out, of its existence even. Against these I have ever lifted my voice. To make war upon these my sword is ever in my hand. But the great body of the Democrats I regard as honest and patriotic citizens. They have no inducement not to be.

"I shall not dwell to-night upon what I deem the most important and distinctive features of the two parties,—the tendencies of their political principles. These, in my view, lie at the foundation of all the others. The tendency of the Whig principles is conservative, that of the *Loco-foco* principles is destructive. In my opinion, the same fatal and Jacobin doctrines which wrought the overthrow of France and filled the streets of Paris with the blood of her noblest citizens, doctrines which, by extending the principles of liberty until it terminates in licentiousness, give free rein and scope to the foulest passions of the human heart, are vigorously at work in the *Loco-focoism* of the Democratic party. In that party extremes meet. Some of the purest and some of the worst men are contained in it.

"Seduced by the name, and to some extent by the nature of liberty, visionaries have ever been found who were for giving it unlimited range. All law they took to be but a restraint upon liberty, and that so far it is wrong. They treat man speculatively, as though he were all good, as though that period of millennial glory looked for by the zealous Christian, when the lamb and the lion should lie down together, were at this time a political fact. They forget the evil that is part of man, and that law is essential to restrain licentiousness, into which liberty among bad men is sure to degenerate. But there are others who advocate similar doctrines with a full knowledge of their inevitable tendency; they do it with the intention of turning them to their individual advantage. These are the men of whom the country has need to beware,—men in whose hearts the principles of the French Revolution find a ready echo,—men who, had they then lived, would have been prominent actors in those days of madness and terror. The two great parties have been travelling the highway of public prosperity together until they have come to where the roads fork. The Whigs point to the same broad and beaten path in which the government has trod so long and with such unexampled success. This, they say, is the old and safe road to national greatness, to national well-being. The *Loco-foco* leaders point to the new path, and declare *that* to be the right way, heedless of the precipices on the verge of which they tread, and down which it would little disturb some of them to see their blinded followers dashing, provided their own selfish ends can first be obtained.

"I cannot to-night go into a discussion of the true nature of *liberty* and *law*, and show how the unlimited presence of either works on the one hand licentiousness and on the other tyranny, that the legitimate province of law is to *regulate* liberty, and that liberty without law would be more

destructive to the order and very being of society, more oppressive, cruel, and blood-thirsty, than even law without liberty. Nor can I now, as I would like, exhibit the tendency of the principles of *Loco-focoism* to that state of things in which the salutary restraints of law are as threads of twine about the limbs of a sleeping giant. I have chosen to-night a different subject, and dry and tedious as I shall be compelled to be, especially to the fair portion of my audience, I still hope to prove not wholly uninteresting to them. Next to the great moral questions which I have said lie at the bottom of all the others, that of the tariff is, in my opinion, of the deepest importance. I shall of necessity be very desultory in my remarks; so vast a topic is incapable of being justly and adequately treated in a single speech.

"I assert, and trust before I have finished to be able to prove, *that a tariff for the purpose of raising revenue, but carefully discriminating in the article upon which the duty is laid and the amount of duty for the protection of American manufactures, while it is a cardinal Whig doctrine is essential to the true prosperity and independence of our great Union.* I propose to establish this position, and further, to show that even if the operation of such a tariff were to permanently increase the price of manufactured articles upon which the duty is imposed, even then it would promote the best interest of the country, and especially of the *cotton-growing States*, and will then undertake to show what seems so incomprehensible to some of my Democratic friends, that the *permanent* operation of a judiciously discriminating tariff is not to increase the *price* of the manufactured article but to *diminish* it.

"I will here premise that I do not think a prohibitory tariff constitutional, nor one that will raise a greater amount of revenue than is sufficient to defray the legitimate expenses of the government in conducting its different departments, legislative, judicial, and executive, in the support of the nucleus of an army and of our gallant little navy, and to pay off that national debt which a series of *Loco-foco* administrations have entailed upon us. I could wish it were otherwise. I desire no surplus revenue. Man is not so honest that I would throw temptation in his way. But so firmly am I convinced of the policy of protecting our native industry, to the positive exclusion, if need be, of the foreign manufactured article, that I could wish there were a clause in the Constitution authorizing the impost, without reference to revenue, even though we enrich the caverns of the ocean by casting the proceeds into its unfathomable depths. But I do not now contend for any such position, nor do the Whig party. They, with their distinguished leader, all now stand upon one common platform, that of a tariff for revenue, with, however, the amplest protection to American industry that a wise and searching discrimination for that purpose can afford. This is the Whig view, this is Mr. Clay's view. The ultra-protectionists of the North, whose notions of the expediency and necessity of the tariff policy led them into the support of a prohibitory one, and those

of the Whig party of the South, who had temporarily fallen into or approximated the error of free trade, have both abandoned their pernicious extremes, and side by side with their fellow-Whigs all over the Union are making common cause and presenting an unbroken front. How stand our opponents on this important measure? What is their view of the tariff? What is Mr. Polk's view? In this and the other cotton-growing States they are in favor of the most unqualified free trade. Some of them even go so far as to advocate direct taxation and the abolition of all tariffs. They would permit other countries to pour upon us their products and their manufactures without let or hindrance, while at the same time taxing to any extent they please whatever articles they consume from us. With the wisdom of the senseless moth that flings itself into the bright flame which at once attracts and destroys it, these Southern politicians have rushed into the fatal error of 'free trade.' Dazzled by a delusive theory and misled by the demagogical clamor of *Cotton! Cotton! Cotton!* as if that were the only interest worthy of thought, as if this mighty country grew nothing but cotton, they have waged a war of extermination against American manufactures.

"But the absurdities of this ruinous doctrine are such that but few statesmen, even of the Democratic party, uphold it. Silas Wright, their great champion in the North, to whom they look as the Samson that shall pull down the Whig temple in the Empire State, even Silas Wright denounces it as foolish and impracticable. In fact, our opponents are greatly divided upon this question. In South Carolina they want a *horizontal* tariff, as they call it. In the West they want a *judicious* tariff, with *incidental* protection,—that is, such protection as is of necessity incident to every tariff, but without discriminating in favor of our own manufactures. This is, I understand, Mr. Polk's view. He is opposed to discrimination, and for letting the manufactures take care of themselves. He agrees with the Democrats of this State and the Southwest in hostility to protection and the building up of American manufactures. These are Mr. Polk's views. He is against protecting American labor by a tariff discriminating in its favor. These are his real sentiments, and on this ground he is openly advocated at the South. On this ground his friends place his claim to election. But how is it in the manufacturing States? How is it at the North? How is it in the great State of Pennsylvania, ribbed as she is with mountains of iron, with all the rich ores and minerals bedded in her bosom, or rather thrusting themselves into the eye of day, with her deep veins of coal, those mighty forests, carboniferated ages ago, that run through her borders, and the life-blood of her trade and noble industry, and what says the old Keystone State to this doctrine? And what do her sister States, interested, like herself, in domestic labor and manufactures? What do New York and New Jersey and Connecticut and Massachusetts say to these free-trade, anti-protection doctrines of the party here? Would any honest Democrat or any Loco-foco demagogue dare to open his mouth

in opposition to American manufactures in Pittsburg, or Philadelphia, or Newark? And yet is it not known *here* that one of the most audacious political frauds ever attempted in any country is now being perpetrated *there*? Is it not known that, abused and denounced as the Whigs here for their tariff notions, they are fighting for their lives to keep pace with Democrats there? That in Pennsylvania Mr. Polk is actually declared to be a better tariff man than Mr. Clay. While upon their Democratic banners, not as it is here, 'Polk and Texas,' the light of the lone star hardly glimmers in the Northern sky, but everywhere 'Polk and Protection,' 'Polk and the Tariff of '42.' Mr. Clay is anti-tariff, they say, and by this desperate and fraudulent game do they hope to carry the great State of Pennsylvania. Will any Democrat of this State venture to go there and proclaim his anti-tariff views? No, no. The miserable South Carolina free-trade doctrine, which is at heart the doctrine of Mr. Polk, is not more thoroughly scouted and despised in Pennsylvania by the Whigs than by the Democrats, and yet by playing off a gross fraud upon the popular ignorance and credulity it is expected to delude that important State into the support of this very doctrine.

"I have laid down the proposition that the protective tariff is essential to our true prosperity and perfect national independence. Before discussing this point let me notice a distinction which exists in the mind of every intelligent person familiar at all with the question, but which in its practical bearing is often overlooked, I mean the distinction between the *principle* of the tariff, the ground on which it is based, the reason why it is beneficial, and the *details* of any law levying the duties. The *principle* is the foundation that upholds the *details*. They may be erroneous, they may even be oppressive, and need the correction of wiser legislation without impairing in the least the firmness or the truth of the political doctrines upon which they are founded. The building may be rude and disproportioned while it rests upon a rock. The architect may be unskillful, though his material and base are perfect. No man but a profound and experienced merchant, or one who has devoted years to the subject, can understand the details of the tariff and know how they will work. How pitiable, then, it is to hear the low demagogues of the Democratic party abusing the tariff, and calling in question the amount of duty levied on this or that article, when they do not know the names of one-half of the thousand articles which form the subject of the tariff and upon which it operates; or the countries whence they come, or the mode of their production, or whether indeed they belong to the mineral or animal kingdom! To listen to their strictures reminds one of the sage fly that perched one day on the dome of St. Paul's, observed some slight defect in the covering of the magnificent structure, and immediately, Loco-foco-like, commenced pouring into the ear of a neighboring fly a criticism of that glorious work of Sir Christopher Wren. I have given some study to this great subject, and while I do not pretend to understand it in all its details and practical bearings, I have

yet seen and know enough to fill me with disgust at hearing such crude objections urged against so vast and comprehensive a scheme.

"Without going into details, then, except on one or two points, I shall address myself to-night to a discussion of the great principle itself contained in the tariff, and upon which its beneficial operation depends, and that is, as I have already intimated, the protection, the encouragement, and the consequent growth of American manufactures. It is too apparent to need arguing that an impost laid upon the foreign manufactured article protects the manufacturer of the same in this country just according to the amount of that impost. The operations of the tariff, then, is to encourage domestic native skill and industry. It is to strengthen the hands and bind up the knees of our infant manufacturing institutions until they have grown to the vigor of manhood, until they can walk alone in their own power and no longer need assistance. It is known to every one that immense capital is required to put manufacturing establishments into effective operation. The buildings necessary for them are useless except when employed to the end for which they were constructed; the spindles and other machinery when not busy at their appointed task are helpless, dead capital. England has already her millions upon millions of pounds sterling invested in manufactures. Her agriculture is in the hands of the few, and the wretched, hunger-bitten population of her manufacturing districts are glad to get employment at any wages that will keep them from absolute starvation. Her buildings, too, are erected, her machinery is in order, her army of operatives are at their posts, vessels freighted with her gold are in our ports to buy our raw material. With these great advantages marshalled in strong array against her, what could feeble New England do? (I speak now in the particular of her first manufacturing struggles.) What could she do against such odds with her comparatively meagre capital, without suitable buildings or machinery, while the broad, fertile fields of the Mississippi Valley and the rich prairies of the boundless West were alluring away her laborers? What, I say, could New England, poor and unaided, do in conflict with a rival so mighty and armed with such immense advantages? What inducements could she hold out to capitalists to invest their money in so expensive and uncertain a venture? Is it not known to every person familiar with the subject that England, for the purpose of nipping our manufactures in the bud, has sometimes poured her goods into this country at less cost than the actual cost of making them? That it has been her deliberate policy, at whatever temporary sacrifice, to crush our native artisans and industrial enterprise in order to secure the whole market of the Union in her own hands? The experience of the last few years has given bitter but salutary lessons to Northern capitalists. In their efforts to compete with foreign capital and foreign labor without adequate protection great fortunes have been lost, incalculable money sunk, vast pecuniary distress and ruin have been encountered. No one doubts now, no one can doubt, it seems

to me, that protection is essential to the safe and profitable investment of capital in manufactures, that without protection their existence and prosperity are utterly precarious.

"The simple question, then, is at once presented, Is it for our true, permanent welfare? Should it be a great national policy to encourage and sustain American manufactures? Is it desirable to have such institutions in the midst of us? That we have all the elements and conditions of a vigorous manufacturing interest, coextensive with the republic, nobody will deny. Within our wide-spread territory are produced most of the minerals and nearly all the vegetable and animal substances used in the mechanic and industrial arts. With so bountiful and benignant a hand have they been strewn around us that they seem like the very finger of Providence, to point out to us the path of national labor and enterprise in which we should walk. There is written on them, in characters plain as day, the nature of one grand branch of our work as a people. With such facilities for manufacturing industry and a demand for its products as universal, incessant, and wellnigh as urgent as that for food,—for how could we exist without hats, and shoes, and wearing apparel, and household furniture, and a thousand other articles wrought by loom, anvil, or furnace?—with such inducements, I say, shall we encourage our native artisans and mechanics, and thus produce within ourselves the fabrics that we need? or shall we rather depend for these upon another nation? Shall we be in commercial and industrial vassalage to a foreign country? or shall we look only to 'God and our native land'? These are the questions, and what patriotic heart does not at once beat with the response? I go further, I take the position that every manufacturer added to the country is a blessing. Every agriculturist who turns to a manufacturer is doubly a blessing. I would not be misunderstood; I do not place the manufacturing above the agricultural interest. Far from it; I consider the great, the leading, the upholding interest of this country to be agricultural, and it is the light which manufactures reflect upon agriculture, it is the healthful relation which they sustain to this fundamental pursuit, that constitutes their beauty and their glory in my eyes. A beauty and a glory which the South, ay, the cotton-growing South, have as good reason to admire as any other section of the Union. Every man who from an agriculturist becomes a manufacturer is still a *consumer*, while he is no longer a *producer*. He must live. He and his family must still eat; they no longer gather from the earth a subsistence, and they must be supplied from the agriculturist who does. What man needs to be told that when the consumers are increased, or remain the same, while the producers are diminished, the value of the article produced, other things being equal, must increase in a corresponding ratio? Why, there are some five hundred thousand men, as I learn from the most authentic statistical resources, now engaged in manufactures in the United States. Upon an average I suppose each of these men must have three persons dependent upon him

for subsistence, making in all two millions of people one way or another dependent upon manufactures for their means of support. These are all consumers of the fruits and productions of the earth, and not producers. They must be supplied by the agriculturist, and to the extent of their need must increase the demand for breadstuffs and meat, and of course their price.

"Suppose, now, that these two millions of our population thus engaged in or dependent upon manufactures consume, on an average, each fifty dollars' worth of breadstuffs a year, or between thirteen or fourteen cents a day. That will make one hundred million dollars worth of grain and breadstuffs they will consume a year. To this add twenty-five dollars a year that they will probably, nay, certainly, average in the consumption of meats. That will be some seven cents a day, or fifty million dollars more a year. Thus you have one hundred and fifty million dollars worth of food annually consumed by those who do not raise a dollar of it. I believe the annual average cotton crop of the United States is two millions of bales. At thirty dollars per bale, which all admit is a full price, it will yield sixty million dollars in money, and yet these despised manufacturers consume of agricultural products used as food nearly three times as much as the entire cotton crop of the whole South, which raises such an outcry against them, is worth. Yes, even in their infant States, just tottering, as it were, upon their feet and trembling at every breath of popular feeling lest they be destroyed, these contemned, derided, and ignorantly abused manufacturers actually consume of the labor of the planter of the boll and stock of the farmer nearly thrice the value of the whole cotton crop of the United States. Why, one would have supposed, from the manner in which the demagogues and narrow-minded politicians of the South boast themselves of their cotton, that *that* constituted the whole and sole production of the country. But I shall come to that presently.

"Suppose, now, fellow-citizens, that by destroying American manufactures,—and the destruction of a proper tariff of discrimination, as I have shown you, would inevitably tend to such a result,—suppose, now, these two millions of persons thus dependent on that branch of our national industry were thrown out of employment, they are not, like the impoverished and stricken workmen of England, thereby exposed to starvation. No, thanks to that benevolent Providence which has given us such a noble country to inhabit and enjoy, the wide and teeming and free earth is all before them where to choose. Agriculture lifts her beckoning hand, and with cheerful smile and welcome voice invites them to partake of her bounties. They in their turn become producers. But what must be the effects upon the fruits of agriculture? Where is the market for the one hundred and fifty million dollars' worth of provisions that they consumed? The cotton planter may sell his two million bales of cotton and receive his sixty million dollars, because England must of necessity take it until she has proved the means of cultivating it herself. But the farmer, the grain-

grower, the stock-raiser, and all the other varied representatives of agriculture, where will they receive the one hundred and fifty million dollars which their own folly and blind zeal have destroyed?

"Suppose there were in the country *no manufactures at all*, what then would the farmer do? Why, the very shoes, hats, clothes that he wears, the axe with which he fells the forest, the spade and shovel with which he delves into the ground, the plough wherewith he traces the furrow into which the '*bare grain*' is dropped, to be changed by the prolific earth into the '*full corn in the ear*,' all are the work of the manufacturer. Will he do without these and hundreds of other articles now so closely interwoven with our convenience, our comfort, and all the necessities of life, that for this very reason we are quite unconscious of the heavy debt we owe them? Will he dispense with these things, or will he look to a foreign land for them?

"What a spectacle would this Union present if we were nothing but an agricultural people, if all the efforts, energies, and enterprises of this mighty nation were turned alone to the cultivation of the soil? Why, we should be a huge and naked giant, powerful, but unwieldy and blind. We should be at the mercy of the rest of the world, half barbarians, and held in vassalage by every manufacturing country, far and near. This, it is true, is an extreme case, and yet it is fair to present it, for as you approximate such a condition by the destruction of manufactures, so the results I have described must inevitably follow. Were we, on the other hand, devoted *exclusively* to manufactures, a nation of Cyclops, and working *only in forges and factories*, the general effect, though different in form, would be equally disastrous. Gaunt famine would ever and anon press upon us with his heavy hand, while nakedness, hunger, and misery would sooner or later be the common portion of the laboring classes. Is there nothing in the recent history of the manufacturing districts of Great Britain to throw light on this subject? To be sure, such an extreme state of things can never happen in this country. Land is too abundant and too free, and as we have no law of primogeniture, wealth, upon the death of any great land-holder or property-owner, becomes scattered along a thousand channels of inheritance and distribution, enriching the whole population through which it passes. Agriculture will always afford an outlet and escape for the excess of manufactures, while such is the fortunate condition to which, as I trust, we are happily coming, that manufactures will always regulate agriculture.

"The one, with her forge and distaff in hand, stands by her ruddy sister, Agriculture, ready to weave her products into useful and beautiful fabrics; while blue-eyed Commerce, with poised pinion, receives and wafts them to other shores, to come back again and bring with her yet greater riches in return. And so the three sisters, lovely as the Graces in heathen mythology, toil on in harmony and link the world into a common brotherhood. Who, then; fellow-citizens, who that loves his country and desires to see her '*proudly eminent*' among the nations of the earth, is

willing to strike a fatal blow to that great manufacturing interest which is so vitally connected with her highest prosperity, strength, and glory?

"'But how,' exclaims your selfish and narrow-minded politician, who is blind alike to the interest and glory of his country, 'how is the South, whose cotton is *not eaten*, to reap any advantage from those things you have described?' I will show you directly. But, let me first ask, Is there nothing in this great Union but the South? Is cotton the only product of our wide-spread land? 'The South! the South!' is always in the mouth of the Southern demagogue, as if no other section of the republic was to be thought of or cared for. The South, fellow-citizens, is a part of the Union; it is the part in which I live and which I love, but it is not all the Union. And if the great mass of my countrymen enjoy inestimable blessings as the fruits of a specific public policy which yet operates somewhat less favorably upon the South, I have heart enough to rejoice in the highest good of the whole, assured that no part can be without its share, if not the largest share, of the benefit. But too much stress is laid in the South, even by good and candid men, upon the principal staple of their own section and its claim in the legislation of the country. It is not generally known what relation it bears to other productions. I hold in my hand a work which is in itself of high character and repute, but which upon this question of the tariff will be esteemed by my political opponents as of the utmost weight. It is *Hunt's Merchants' Magazine*. It contains statistical tables, compiled principally from the census of 1840, which exhibit the annual productions of the agricultural labor of the United States. You will be surprised to learn how some of them rank with that of which you have heard so much. Of the article of wheat raised in the United States there were one hundred million bushels. I am not familiar with the price of wheat, but if there is any practical merchant in the audience who can tell us we shall be able to come at its value." (A voice, "Eighty cents.") "Well, at eighty cents the crop would be worth eighty million dollars, nearly one-third more than the whole cotton crop of the United States; of oats the million bushels, worth fifteen cents per bushel; of hay worth one hundred and twenty million dollars, double the value of the whole cotton crop. And here, too, is a subject in which the fair portion of my audience are interested. By the labor of the hands of our thrifty country-women in the manufacture of the single article of milk into butter and cheese, a sum of thirty million dollars is realized, nearly equal to one-half the price of the whole cotton crop. And so I might continue through the entire list of agricultural productions, the value of which in the aggregate is more than a score times as great as that of our own vaunted staple. For I have not spoken of rice, of tobacco, of sugar, of hemp, of rye, and a host of minor articles which yet are extensively used, and in the mass highly valuable. All these productions are fostered, encouraged, increased, and find a market, and a *home* market, very much through the operation of the tariff. And shall we not retain a system fraught with such benign results?

"But I proposed to show that even the cotton-planter is benefited by a protective policy in the *increased consumption of, and consequently the increased demand for, his staple*. Under the operation of the present tariff, where before the noise of the shuttle and the busy hum of employment had been silenced, renewed and successful attempts have been made to open manufactories. During the past year, as I am informed (I speak in round numbers, and should I be inaccurate it does not affect the validity of my argument),—during the past year our American manufacturers consumed over four hundred thousand bales of cotton. This year it is but fair to presume that they will use five hundred thousand bales, which is one-fourth of the entire crop, and which, as experience shows and facts demonstrate, the Southern planter is sure of a better price than he will get abroad. For there is along our own shores a system of *free trade* which I glory in, which from the mouth of the Sabine to the mouth of the St. Croix presents a sea-coast for four thousand miles in length open to American sailors, and to them only. That is the sort of free trade I go for. Now, I say, the Southern planter sells his five hundred thousand bales to the Northern manufacturers at a better price than he could get abroad. They can afford to give more: they buy it without a duty. The English manufacturer pays a duty. Here, then, is a certain demand for one-fourth of the whole crop of the South in a free-trade market, unhampered by custom-house restrictions, unimpeded by tax or impost of any kind. This home market is the legitimate fruit of a wise tariff. But this is not all. England is a manufacturing country. For ages her capital and her resources, to a great extent, have been invested in this kind of industry. Her buildings and her machinery and her starving population cannot be idle; government dare not for its existence permit it; manufacture she must. And if one market fails she will force open another. She will compel some half-barbarous nation, like the Chinese, incapable of defence or resistance, to take her cutlery and calicoes, and thus find a vent for the labor of her population. Let this country manufacture as it may, and largely as it may, it will not materially diminish the manufactures of England. She must work up her accustomed portion; so much she will have, whatever it cost. Thus by the operation of the protective tariff increasing the home consumption England herself becomes a better market to the Southern planter; and is this not fruit worth gathering?

"But I promised to prove, also, what to many of my Democratic friends is a great stumbling-block, that the effect of the tariff is *eventually* to *diminish* the price of the manufactured article, or at least not to raise it, even though at first a *temporary* rise appears to be, and really be the result. And here I will answer what is a difficulty with many. They think and say that the levy of an impost must add so much to the price of the article. That the tax must fall wholly upon the consumer. This is not so, and that it is not so will be at once apparent by the reflection that the *consumer* is not *obliged*, in a great majority of cases, *to buy*, while the man-

ufacturer, to keep up his business, is *obliged to sell*. He must sell to make the smaller profit, so the loss at least would be shared. If all things remained as they were, the tax would no doubt fall on the consumer. But things do not remain the same. The very object of the tariff is that they shall not. Immediately our own manufactories are at work and capital gets fairly invested in them, they must go on. Others, however, have also sprung up, competition takes place, and with competition its invariable accompaniment, a reduction in price, until, in a space of time scarcely credible, the article is manufactured in this country at rates fully as low as prevailed before the tariff, frequently lower. The history of the various tariff laws and their operation proves this beyond cavil or denial, and the very result is effected which seems so surprising. The matter may be illustrated by an example near home. Suppose but one steamboat running between this and New Orleans, and that there was no other medium of travel or transportation. Suppose, to use a favorite word, this boat had a '*monopoly*' of the trade, and charged enormous prices for freight and travel. Now suppose one of your citizens were to say, 'I will build a boat in opposition to this monopolist if you will give me at first higher prices to justify my investment of the capital; I will enter into the trade, compete with the present boat, and force her to reduce her fare, and then, when my capital is once fairly invested in the boat and the business begins to prosper, I can and will reduce my charges until we both fall to reasonable rates, or are forced to do so by other boats still coming into the trade,' would not this reasoning be just, and is it not daily exemplified and acted on by sensible men around you? And yet such is the simple and natural effect of the tariff when it goes into full and fair and permanent operation.

"But there is another objection against the tariff, though found generally only in the mouth of the partisan demagogue. It is that the manufacturers are '*making money* by it,' that some of them have realized twenty per cent. on their investment, that it is a monopoly in their hands, and that therefore the legislation of the country operates *partially* for them. Before I combat the truth of this objection I must express my deep contempt for the source from which it generally emanates. It is one of those low and miserable attempts to array the poorer classes against the rich which I never see without sentiments of abhorrence. It is the emanation of a base envy which denominates every man who by industry and skill and talent has accumulated a little property an aristocrat, which looks upon wealth legitimately engaged in commerce or other employment as monopoly, and appealing to the vilest passions of men, would array society against itself, to the utter destruction of both society and government. Society must consist of all the varied relations and interests of life. All its members are vitally related to each other and to the whole body. Every one is bound to contribute his modicum of intelligence, morals, industry, and enterprise to the general stock. The minutest particles of the twig which I hold in my hand are held closely together by an inevitable

law of cohesion. Every particle of matter in the universe, by a similar law pervading nature, is attracted to this twig, and it in turn to them. And when I thus let it fall, true to its instincts, it seeks the body which, being largest, attracts it most powerfully. So ought society to be framed. There should be no jarring elements nor discordant parts. There need be none. Government should be one beautiful and harmonious whole, where each might pursue, unmolested of the other, his own interests. In this our free and broad land there are no distinctions in society except what men may make for themselves. Stephen Girard, a poor French boy, landed in Philadelphia without friends and without means, and yet in a few years had accumulated an immense fortune. John Jacob Astor with his millions of dollars, now tottering upon the verge of the grave, commenced life a penniless adventurer. In a few years where will be his immense fortune? Scattered into a hundred hands, distributed in fertilizing rills throughout the whole country, perhaps not accomplishing a single wish of its accumulator, yet fulfilling its inevitable destiny, of enriching and benefiting the entire body. The rich man of to-day is the poor man of to-morrow, and the reverse. Wealth in its continuance is uncertain and held by the frailest tenure. He, then, fellow-citizens, is your bitterest enemy who would incite you against the rich man. He is himself the victim of the worst passions. There are, there can be no monopolies in this country. Wealth, here, like water, will seek its level. Wherever capital finds a safe and lucrative investment it will be made. That this is so is shown in the fact that Maryland is largely engaged in manufactures, Virginia, North Carolina, Georgia, South Carolina, Tennessee, Kentucky, and Missouri are all turning their attention in that direction. It has been stated that slave labor is best fitted for manufactures, the slaves are more docile, more under control, more uniform, will work longer, and are less expensive. Should these calculations and expectations prove true we will no longer hear the cry of *monopoly or against protection*. But the South, as it is now, have no right to say one word on that subject. Labor, in proportion to capital invested, yields a far handsomer revenue in the South than in any other part of the Union. From statistical tables now before me, contained in *Hunt's Merchants' Magazine*, it is shown that while the average return from labor in the New England States is about eighty-four, in Mississippi it is one hundred and sixty-nine, twice as much as the average of New England, and greater than in any other State of the Union except Louisiana, whose commercial facilities, through New Orleans, bring it slightly above the estimate for Mississippi. We, then, are the real monopolists, if monopoly exists anywhere. We produce a staple that nature has said shall not grow north of our latitude, and it yields double what our manufacturing brethren obtain. We should be forever silenced on that subject, then.

"But it is said the effect of a protective tariff is to ruin our commerce. I have incidentally shown already it will have the contrary effect. At

the worst it would change the character, not the extent of our commerce. Perhaps we might not send so many ships abroad, our intercourse with foreign nations, when we become independent of them in our productions, might not be so great. There would be no need of it. We have all the heart can wish, all the patriot could desire of our own production, the growth or manufacture of our own land; but, as I have already remarked, let our internal resources be developed, and with some four thousand miles of coast, with half a dozen Mediterraneans as large as that which divides Europe from Africa, with our mighty rivers that at once fertilize and open channels of intercourse and access through the whole land, we have ample scope and verge enough for all our vessels. We might turn one-half our forests into ships, one-half our population into sailors, whiten our coast, lakes, and seas with sails, and yet not give entire development to our commercial resources. But I cannot now press the subject further.

"He who could succeed in establishing free trade as the policy of this country, or in overthrowing the tariff system and destroying our American manufactures, would be entitled to receive from the English government the highest pension in their gift. If their constitution and laws permitted, there is no dukedom or earldom to which Sir Robert Peel might not justly elevate him. Yes, fellow-citizens, if the orators of the Democratic party could persuade us by their plausible sophistries that free trade is the true policy of this country, England would rejoice to her very core. I bid you, then, Democrats and Whigs, beware of their arguments and their arts. Think not because the liquid in the cup seems fair and pure that it is wholesome drink. Even if they tell you it is the red and bubbling wine, dash it down; there is poison in it, and all the more deadly from the guise it wears.

"And here, before I close, let me touch upon another view of this great question in which the South is most deeply interested. Those among us who are opposed to domestic manufactures know that the result is decidedly beneficial to England, to Germany, and to France, but more especially to England, who is by far the largest consumer of our cotton. And yet, who more awake than these Southern anti-tariff politicians to the interference of England on the subject of annexation of Texas? It is strange that they are not equally alive to danger here. Do they think that England, who at an enormous sacrifice abolished her own system of servitude, who has passed arbitrary laws against the introduction into her territory of *slave-made sugar*, and who has through her ministers and parliament almost taken oath that she will not rest from her labors till slavery ceases to exist,—do they think that England, so determined, so powerful, and with such resources, will take your slave-grown cotton any longer than she is obliged to do so? She cannot *now* do without it, but do you not know that she has nearly turned the world upside down in her efforts to raise cotton by a system of free labor? And when you reflect how broad a belt of land encircles the earth in which cotton will grow and thrive, and that but a

few years ago hardly a bale was grown in the United States, is there such entire certainty that she may not ultimately succeed? Shall we, then, be dependent on England for our market or upon ourselves? Shall we in the matter of slavery find her or the North our best friend? For myself, I would rather look at home than abroad. Our Northern brethren, however opposed they are to slavery,—fanatics though some of them may be on the subject,—have yet sworn, both Whigs and Democrats, to maintain faithfully the Constitution of the country by which slavery is protected,—that Constitution which is at once our surety and our shield. I would rather trust our Northern brethren, whose forefathers and ours fought the battles of the Revolution side by side, while their mothers and our own together wrung their hands over the desolations of the country or bound up the wounds of the injured or administered consolation to the dying; I would rather trust the sons of our conjoint sires, from whose wisdom we have derived our noble Constitution of government, and in which they feel a pride equal to our own. In the North, too, many of us have mothers, sisters, and brothers, who love us and regard us as part of themselves,—I would rather trust them . . . There is one more subject upon which I had designed to say a few words, but time forbids." (Cries of "Go on!" "Go on!") "The evening is now far advanced, and most of you, especially the ladies, are doubtless weary. On some future occasion I will discuss the subject referred to before either of the associations in the city. I return you my thanks for the patient and considerate attention you have paid me during my long address, and I only regret you have not been more fully compensated."

After Prentiss had closed and he was going off with his friends amidst the illuminations, he exclaimed, with his chest thrown out and his hand upon it, "What a glorious Whig transparency my heart would make!"

The main basis of the argument for protective tariff rested upon the idea that we were one national family. Fraternal feeling was the abutment from either side upon which the bridge could be spanned. With sectional hostility existing between the North and the South, in consequence of the anti-slavery agitation, the South contended that the system of a protective tariff was unjust if it forced them to pay a higher price on articles of consumption. To meet this the Whigs attempted to maintain the *paradox* that the tendency of the system was, in the long run, to *cheapen* the protected articles. The argument of Mr. Prentiss on this point was certainly ingenious, if not convincing. I would, with all due deference, suggest that the

only true ground upon which the system can be sustained is the *military* ground. Our country, to be independent in time of war, must have the power of *making everything at home in time of peace at any and every cost.*

The intelligent reader need not be told the result of the gigantic struggle for the Presidency in 1844. Polk received of the popular vote 1,329,013; Clay, 1,231,643; Birney, the Liberty candidate, 66,304. Polk's electoral vote was 170; Clay's, 105. In Mississippi Polk received 25,126; Clay, 19,206.

The general opinion of the day was that the question of the annexation of Texas caused Clay's defeat. It is certain that some of his former warmest supporters left him on that issue. He was warned of the danger, but when urged to sanction the annexation he stood to his conviction. To all entreaties he made the noble reply which has canonized his integrity, "I would rather be right than be President." The annexation of Texas precipitated a war with Mexico, which led to the dismemberment of that republic. This led to the admission of California and the agitation of the slavery question, which finally resulted in our fratricidal war and the extinction of the very institution which the pro-slavery politicians of the South thought would be perpetuated by the annexation.

CHAPTER XVIII.

ANY one might suppose that Prentiss would have been intoxicated by the praises heaped upon him by the people, but this was not the case. True, his soul was enlisted in the great cause; but, while adulation was pouring upon him, his heart was in his home. Even while the pæans were yet ringing in his ears, he retired to the solitude of his chamber, and, all unknown to the outside world, penned the following letter to his wife:

* MONTGOMERY, ALA., March 16, 1844.

"I arrived here this evening at four o'clock, when I was forthwith called upon by another committee to make them a speech. I begged off, and was about going to my room to write you a letter and then take a little sleep, as the cars leave here at one o'clock to-night. The committee just then returned and informed me that a large crowd had assembled, among whom were many ladies, in expectation of hearing me, and that I must not disappoint them. With my usual good nature I consented to their wishes, and have just returned from making a long speech to five hundred people. They appeared much gratified, but I am tired to death of it, and trust I shall be able to escape such annoyances in the future. Since our marriage, my own dear Mary, I have abandoned all political ambition, and nothing but a *sense of duty can induce me to take any part in politics*. All my hopes and wishes are centred in home and the dear friends who are connected with it. Oh, how homesick I do feel! I would let one of my fingers be cut off for the pleasure of seeing you and Jennie" (his daughter) "only for five minutes. I am sick and melancholy to think of the period which must intervene before my return. But there is one comfort at least in thinking how joyful will be that return. With a throbbing and happy heart I will clasp you and dear little Jennie once more to my breast. How often shall I kiss you and thank Heaven for the blessing it has afforded in permitting me to do so! *Dear, dear Mary, sweet, sweet Jennie*, wife and daughter, your husband and father, though far away, is now thinking of you, and invoking, with tears in his eyes, all good angels to guard and protect you."

Such was the under-current of his tender emotions wherever

he went, and they show to the world now the purity, intensity, and holiness of his domestic affections.

The 17th day of July, 1845, was, so far as Mr. Prentiss's pecuniary condition was concerned, the day of doom. To comprehend this we must now take up the dropped stitch in the thread of our narrative and return to 1837, when, the reader will remember, Prentiss had by the decision of the Supreme Court of Mississippi recovered the commons in front of Vicksburg, valued then at from one hundred thousand to three hundred and fifty thousand dollars. On these he had put up large and extensive buildings, estimated to be worth one hundred thousand dollars. It will be remembered that in that case the title of Vick's *daughters* came into the question *collaterally*, and the opinion of the court was that they had no interest in the two-hundred-acre tract reserved for the city in Vick's will. It will be remembered further that the city of Vicksburg claimed the commons partly in virtue of the dedication by the administrator, Mr. Lane. No sooner had the court decided that the city of Vicksburg was not entitled than a new question sprung up in the minds of the daughters of Mr. Vick. Rev. John Lane, who had married one of them, had moved into the State of Louisiana. The other sisters were residents of the State of Tennessee. Being thus residents of different States they could bring suit against the parties claiming the commons in the United States Court. Accordingly, as early as 1838 Rev. John Lane and wife and some of the other daughters of Newit Vick filed their bill on the equity side of the Circuit Court of the United States for the Southern District of Mississippi setting out the will, the administration of Lane, the payment of all the debts, the sale of the town lots, and that the "commons" were still left; that the complainants were entitled to a partition of them, or a sale and division of the proceeds, etc., and praying for a construction of the will. To this suit Prentiss and others were made parties. Some of the defendants answered the bill and concurred in the prayer for division; others concurred generally, and prayed that their parts might be allotted to them.

But the parties made defendant as *vendees*, to wit, Prentiss, etc., *demurred* to the bill. The cause being set down for hearing

on this state of preparation, the court, in June, 1842, sustained the demurrer and dismissed the bill.

From this decree the complainants appealed to the Supreme Court of the United States. In law phrase, they, Prentiss, etc., "demurred" to the bill, or, in other words, they said, admitting all the bill alleges, it is evident from the face of the will that the four sons *alone* of Newit Vick are entitled to this two-hundred-acre tract, the daughters are not at all entitled to it or interested in it, and that the will had been so construed by the Supreme Court of Mississippi.

The reader will perceive, therefore, that the question now presented before the court was very different from the one presented in the case heretofore described, although the same *elements* entered into the discussion. There the question was, Did Newit Vick dedicate the commons in his lifetime, or did Lane do it under proper authority? Both these questions were decided against the city. But in this case the naked, bold question was, Did Newit Vick in his will devise this two hundred acres to his *sons exclusively*, or to his *sons and daughters*? If the latter, then the daughters were entitled to nine shares of it. The third clause, as will be seen by reference to it, gives to each of his daughters one equal proportion, with his sons and wife, of all of his personal estate as they come of age or marry, and to *his sons* an equal portion of said personal estate as they come of age, *together with all his lands, all of which lands* were to be appraised, valued, and divided when Westley arrived at twenty-one years; the said Westley having one part, and the son William having the other part, of the tracts unclaimed by the wife Elizabeth, and the son Newit to have, at her death, the one she had chosen to occupy. Hartwell was to keep the part he already had in possession. Had this clause stood alone the question would have been beyond doubt, but the fourth clause, after appointing the executors, etc., wishes—that is, directs—his executors to remember the town lots, hereafter to be laid off on the aforementioned *two hundred acres* of land, should be *sold* to pay *his* debts or other engagements, in preference to any other of his property, "for the use and benefit of all his heirs" (interlined in the will). The fate of the cause hung upon the construction of these *two* clauses.

The demurrer was sustained in the court below, and Lane appealed to the Supreme Court. Hon. Ben Hardin, of Kentucky, represented the complainants appellants and John J. Crittenden the defendants. The reporter says, "This is one of the cases which was argued during his unavoidable absence, and although he is enabled to give Mr. Hardin's argument, he regrets that he could not furnish Mr. Crittenden's."

Of the eight judges, Story was absent and Nelson had not taken his seat. Of the six who presided, four, that is, McLean, Wayne, Catron, and Daniel, held that the fourth clause entitled the daughters to share equally with the sons in the two-hundred-acre land tract, while two of the judges, to wit, McKinley and Chief-Justice Taney, held to the contrary. Judge McLean delivered the opinion of the court, and the critical reader will observe that the reasoning of the court is sustained in one part by the hypothetical interlineation of the little word "and" before the interlined words in the will, "for the use and benefit of all my heirs." And Justice McKinley, in his dissenting opinion, comments with cautious words of judicial severity against this *hypothetical interlineation*. "I deny the power of the court, in such a case as this, to add the word 'and.'" He held that *all the lands* passed to the sons under the third clause of the will, unmodified by the interlined words of the fourth clause, and that the will, having been adjudicated by the Supreme Court of Mississippi, was *res adjudicata*.

The above synopsis shows upon what slight circumstances sometimes hang not only the fate of great cases in law, but also the destiny of men. Had Story and Nelson been upon the bench the court might have stood four to four, and thus the complainants' cause might have been lost, as it requires a majority to overrule a decision of the court below. As it was, the decision of the court below was reversed and the case sent back.

There were no electric telegraphs in those days, and the news was conveyed to Prentiss in the mournful letter below of John J. Crittenden :

"I was really so cast down and overwhelmed by the decision of the Supreme Court on the day before yesterday (July 17) in your Vicksburg case that I had no heart to inform you of the result. And but for the

necessity of the case I would not say a word on the subject. The court (the chief justice and McKinley dissenting) has decided that the daughters of the testator Vick have an equal interest with the sons in the two-hundred-acre tract of land reserved or designated in the will as the site for the town, the demurrer overruled and the cause remanded for further proceedings. Such a thing, I believe, is never granted, but my determination is now to apply for a rehearing. You may expect soon to hear from me again. I am in no mood to write more at present."

The legal profession, as a general rule, is thought by the outside world to be composed of a set of heartless men, more intent upon fees than justice; but never was there a greater mistake. A lawyer almost always identifies himself with his clients and their cause, and oftentimes, in the still watches of the night, even when they are quietly sleeping, his brain reels in preparing for the coming struggle in their behalf, and when the decision falls adverse he mourns with them as though the loss were his own. Crittenden's touching letter is but an illustration of the state of feeling through which a lawyer passes during a long and checkered professional career.

The news contained in that letter must have fallen like a thunderbolt upon Prentiss, still he did not quail. The decision, he wrote, had thrown the whole town of Vicksburg (all his property inclusive) into litigation. He did not fear the result, but it would take a long time to bring it to a final conclusion, and in the mean while, no one would buy or take in payment property so situated. The consequence had been that the largest portion of his property, the hotel included, had been sacrificed, under execution, for comparatively nothing. "I hope," said he, "still to be able to work out even, if I can realize some debts due me. Indeed, I shall be very well satisfied to begin the world anew, provided I can begin free from my old debts." In this last hope he was doomed to disappointment. Not only by one fell swoop was the result of his long labor swept from beneath him, but the debts, mainly contracted on this very property itself, were left, like the rigging of a wrecked vessel, ever dragging by his side, to batter and impede his progress.

One striking feature of this romantic case lies in the fact that Prentiss had rescued the property from the corporation of Vicksburg, and the daughters of Vick in turn wrested it from him.

In spite of the dedication, Prentiss, like the osprey, had captured the prey which Lane had drawn in the Vicksburg net, but now the eagles, led by Lane, recaptured it from him.

It was a fortunate thing for him in this his dark day of adversity that he was blessed by the companionship of a noble woman to cheer and sustain him in his struggle. By a sort of paradox the weaker sex becomes the stronger in the hour of misfortune, and bears the ills of life with more fortitude than men. But for woman many a strong man in his agony would fall, never to rise again. I use the word *agony*, for to a man of Prentiss's sensitive nature it must have been agony to have been compelled, day after day, to meet the creditor, "tapping, tapping" at his door with the answer, "*never more.*" The noble fountain of beneficence to his family, too, was now dried up. The open hand of charity had to be shut, and the ear closed to the cry of pity for help. An ordinary man would have been crushed in this fall from the pinnacle of prosperity to the ragged rock of bankruptcy, but he was not.

The announcement he made in his closing speech at Jackson, that it was his purpose to leave the State, fell like a note of sorrow upon his friends. This determination was the result of mature deliberation. The fact was that, in spite of his great lucrative practice as a lawyer, his private affairs had become irretrievably embarrassed unless he could increase his income. He himself, in one of his letters, describes his situation as "floundering with my debts like a fish in a net." It was, therefore, with a view of extricating himself that he fixed his eye on New Orleans, as a field in which a richer harvest could be gathered.

Prodigal of his means and prodigal of his *name*, his own individual debts and his endorsement debts now came flocking around him like vultures to gnaw at his vitals. So generous was he with his name that on one occasion, just as he was on the eve of departure for Washington City, he signed, in blank, several sheets and handed them to a friend for the use of Colonel ——. His friend expostulated with him in vain; his noble reply was, "Colonel —— was kind to me, and assisted me when I came to the State poor and struggling for a livelihood, and I shall never cease

to be grateful to him for this. I am willing to trust to his honor."

An amusing instance of his prodigality was related to me in substance, as follows: During one of his visits to Louisville the occupants of the rooms on either side of the corridor in the hotel were one morning awakened by an uproarious noise as of the laughter of a crowd; they peeped out, and there stood Prentiss, rolling half-dollars down the hall just for the fun of seeing the waiters scramble for them at the other end.

His transplantation to New Orleans was hazardous, for, before obtaining his license, he had to pass through the ordeal of a rigid examination by the Supreme Court, before which, it is said, distinguished practitioners from other States had sometimes been rejected. He, however, passed triumphantly. He was now thirty-eight years of age; he had grown up to maturity under the old common law system. That grand old law had sprung up in the Anglo-Saxon soil, and, like the native British oak, was ragged and jagged, with here and there a parliamentary graft, here and there a *custom* and equity, like a vine, intertwined around it. Its rude jargon of phrases, half Saxon, half Latin, took almost a lifetime to learn. Its quaint pleadings of declarations, pleas, replications, rejoinders, surrejoinders, rebutters, sur-rebutters, and demurrers were prolific parents to beget but *one issue*. All these had been mastered by him, but, like the useless armor of the days of chivalry, they had now to be doffed and laid aside.

Louisiana, as is well known, was the only State that had adopted the civil law. I have compared the common law to the British oak, and it seems quite as apposite to compare the civil law of Louisiana to the symmetrical Oriental fir, with every leaf trimmed and set to its place, every imaginable phase of contract sought to be provided for, and written down in curt, short sentences to be memorized and applied. Under the one system the court gave the law and the jury the facts. Under the other the court was in most civil cases judge and jury. The technical nomenclature of the two systems was in marked contrast. There was not so much difference in the administration of the criminal law, for Louisiana early adopted the fundamental principles of the common law in that branch.

From the above brief contrast it is evident that it was no light matter for a practitioner of long standing under one system easily to adapt himself to the other.

Prentiss jocularly remarked, "My constantly addressing juries has ruined me." This he said because he felt that a play upon the passions was of no use before a court; but, to use a paradox, there never lived a more *humble, self-reliant* man than he, and he writes to his brother, as early as 1845,—

"I am busy studying civil law and preparing myself for New Orleans. I have met with much difficulty and annoyance in closing up my old business, and do not expect to save anything from the wreck. Indeed, I shall be satisfied to get out of the State as *rich* as I got into it."

When it ripened into a fact that he was going to leave the State, his old friends at Natchez, James C. Wilkins, Dr. Stephen Duncan, George Winchester, Adam L. Bingaman, and others, "anxious to testify their warm personal regard, as well as to convince him of their admiration for those great abilities he had so conspicuously and efficaciously exerted in the effort to strangle the monster (repudiation) and at the same time to arrest the political perversity which in its overwhelming course threatens to demolish all moral and constitutional restraints," tendered him a public dinner to be given at Natchez. His old friends and neighbors at Vicksburg had done the same.

On the 25th of September, 1845, he left for New Orleans, to make arrangement for his final move, and by the 3d of November was settled in his new home. The halo of his reputation had gone with him, and he had been but a few weeks in New Orleans when he wrote:

"I have already considerable business, although it has not yet ripened into fees; my friends predict for me much greater success than I choose to believe in. But, at all events, I am glad I am out of Mississippi, and only regret that I did not come here ten years ago. I shall quit politics entirely and devote myself to my profession."

Letters of encouragement flowed in upon him. One from Crittenden says,—

"Now that you are fairly settled in New Orleans, you are to be regarded as a man of business, I suppose, devoted to your causes and your briefs.

I hope that it may be so, and that all the temptations of New Orleans may have no power over you. You have a noble career before you there if you but pursue it with diligence and industry."

Another friend wrote,—

"With your vast fund of experience already treasured up, the best and readiest interpreter of all book knowledge, and with your unrivalled gifts, I really do not see what is to prevent your becoming, if you will, the deepest, the ablest, as well as the smartest lawyer in the land. May God bless you!"

In order to master his new mistress, the civil law, Prentiss became, for him, an intense student. The story runs that his youthful partner, Mr. Finney, once found him lying upon the floor in the office, with piles of law-books around him, deeply engaged in the unravelling of some abstruse points in a case in which he was engaged. Though supremely blessed in his domestic relations, he was harassed by his surrounding pecuniary difficulties, it is therefore no wonder that the intense application began to tell upon his hitherto stout constitution. Had he been allowed to pursue the even tenor of his way he might, perhaps, have recuperated, but such was his fame that, whenever there was a public demonstration requiring talents to gild the pageant, he was invariably called upon to assist, and, to use his own expression (already given), referring to a special occasion, "with his usual good nature, he could not refuse."

Scarcely had he settled down to his hard work in New Orleans before he was requested to deliver, on the 22d of December, 1845, the anniversary address of the landing of the Pilgrims. Being himself a New Englander, from the *Ultima Thule* of the Union, he could fully appreciate the eloquence of the theme. Strange to say, he was not willing on this occasion to trust to his power of extempore speaking. He wrote out the address and delivered it from the manuscript. With the exception of the eulogy on Lafayette, delivered years before, this was, I think, the only speech of his ever written and prepared, consequently, being unused to this style, it is said that he seemed to be cramped by the manuscript, and he did not, therefore, deliver it with the same unction as those speeches bursting from him in his usual mode. The address itself can still find a

responsive echo in the hearts of *his* people, and brings to the memory of Southerners the feeling they cherished before their affections were rent asunder by our late conflict.

"This is a day dear to the sons of New England, and ever held by them in sacred remembrance. On this day, from every quarter of the globe, they gather in spirit around the rock of Plymouth, and hang upon the urn of the Pilgrim fathers the garlands of filial gratitude and affection. We have assembled for the purpose of participating in this honorable duty of performing this pious pilgrimage. To-day we will visit that memorable spot, we will gaze upon the place where a feeble band of persecuted exiles founded a mighty nation, and our hearts will exult with proud gratification as we remember that on that barren shore our ancestors planted not only empire, but *freedom*. We will meditate upon their toils, their sufferings, and their virtues, and to-morrow return to our daily avocations with minds refreshed and improved by the contemplation of their high principles and noble purposes.

"The human mind cannot be contented with the present. It is ever journeying through the *trodden* regions of the past, or making *adventurous excursions* into the mysterious realms of the future. He who lives only in the present is but a brute, and has not attained the human dignity. Of the future but little is known. Clouds and darkness rest upon it. We yearn to become acquainted with its hidden secrets. We stretch out our arms to its shadowy inhabitants. We invoke our posterity, but they answer not. We wander in its dim precincts till reason becomes confused, and at last start back in fear, like mariners who have entered an unknown ocean, of whose winds, tides, currents, and quicksands they are wholly ignorant. Then it is we turn for relief to the past, that mighty reservoir of men and things. There we have something tangible, to which our sympathies can attach, upon which we can lean for support, from whence we can gather knowledge and learn wisdom. There we are introduced into Nature's vast laboratory and witness her elemental labors. We mark with interest the changes in continents and oceans by which she has notched the centuries. But our attention is still more deeply aroused by the great *moral* events which have controlled the fortunes of those who have preceded us and still influence our own. With curious wonder we gaze down the long aisles of the past upon generations that are gone. We behold, as in a magic glass, men in form and feature like ourselves, actuated by the same motives, urged by the same passions, busily engaged in shaping out their own destinies and ours. We approach them and they refuse not our invocation. We hold converse with the wise philosophers, the sage legislators, and the divine poets. We enter the tent of the general and partake of his most secret counsels. We go forth with him into the battle-field and behold him place his glittering squadrons, then we listen with a pleasing fear to the trumpet and the drum, and the still more terrible music of the booming cannon and the clashing arms, but most of all,

among the innumerable multitudes who peopled the past, we seek our own ancestors, drawn towards them by an irresistible sympathy. *Indeed, they were our other selves.* With reverent solicitude we examine into their character and actions, and as we find them worthy or unworthy our hearts swell with pride or our cheeks glow with shame. We search with avidity into the most trivial circumstances of their history and eagerly treasure up every memento of their fortunes. The instincts of our nature bind us indissolubly to them, and link our fate with theirs. Men cannot live without a past; it is as essential to them as a future. Into its vast confines we still journey to-day and converse with our Pilgrim fathers. We will speak to them and they shall answer us.

“Two centuries and a quarter ago a little tempest-tossed, weather-beaten bark, barely escaped from the jaws of the wild Atlantic, landed upon the bleakest shore of New England; from her deck disembarked a hundred and one careworn exiles. To the casual observer no event could seem more insignificant. The contemptuous eye of the world scarcely deigned to notice it. The famous vessel that bore Cæsar and his fortunes landed but an ignoble freight compared with that of the ‘Mayflower.’ Her little band of Pilgrims brought with them neither wealth nor power, but the principles of civil and religious freedom. They planted them for the first time in the Western continent. They cherished, cultivated, and developed them to a full and luxurious maturity, and then furnished them to their posterity as the only sure and permanent foundation for a free government. Upon those foundations rests the fabric of our free republic; upon those principles depends the career of human liberty. Little did the miserable pedant and bigot who then wielded the sceptre of Great Britain imagine that from this feeble settlement of persecuted and despised puritans in a century and a half would arise a nation capable of coping with his own mighty empire in arts and arms.

“It is not my purpose to enter into a history of the Pilgrims, to recount the bitter persecutions and ignominious sufferings which drove them from England, to tell of the eleven years of peace and quiet spent in Holland under their beloved and venerated pastor, nor to describe the devoted patriotism which prompted them to plant a colony in some distant land where they could remain citizens of their native country and at the same time be removed from its oppressors, where they could enjoy liberty without violating allegiance. Neither shall I speak of the perils of their adventurous voyage, of the hardships of their early settlement, of the famine which prostrated, and the pestilence which consumed them. With all these things you are familiar both from the page of history and the lips of tradition. On occasions similar to this the ablest and most honored sons of New England have been accustomed to tell with touching eloquence the story of their sufferings, their fortitude, their perseverance, and their success. With pious care they have gathered and preserved the scattered memorials of those early days, and the names of Carver, Bradford, Wins-

low, Standish, and their noble companions have long since become with us venerated household words.

"There were, however, some traits that distinguished the enterprise of the Pilgrims from all others, and which are well worthy of continued remembrance. In forming their colony they sought neither wealth nor conquest, but only peace and freedom. They asked but for a region where they could make their own laws and worship God according to the dictates of their own consciences. From the moment they touched the shore they labored with orderly, systematic, and persevering industry. They cultivated without a murmur a poor and ungrateful soil, which even now yields but a stubborn obedience to the dominion of the plough. They made no search for gold, nor tortured the miserable savages to wring from them the discovery of imaginary mines. Though landed by a treacherous pilot upon a barren and inhospitable coast, they sought neither richer fields nor a more hospitable climate. They found liberty, and for the rest it mattered little. For more than eleven years they had meditated upon their enterprise, and it was no small matter which could turn them from its completion. On the spot where they first rested from their wanderings, with stern and high resolve they built their little city and founded their young republic. Their honesty, industry, knowledge, and piety grew up together in happy union. There, in patriarchal simplicity and republican equality, the Pilgrim fathers and mothers passed their honorable days, leaving to posterity the invaluable legacy of their principles and their example.

"How proudly can we compare their conduct with that of the adventurers of other nations who preceded them! How did the Spaniard colonize? Let Mexico, Peru, and Hispaniola answer. He followed in the train of the great discoverer like a devouring pestilence. His cry was 'Gold!' 'Gold!' 'Gold!' Never in the history of the world had the *sacra fames auri* exhibited itself with such fearful intensity. His imagination maddened with visions of sudden and boundless wealth, clad in mail, he leaped upon the New World an armed robber. In greedy haste he grasped the sparkling sand, and then cast it down with curses when he found the glittering grains were not of gold. Pitiless as the bloodhounds by his side, he plunged into the primeval forest, crossed rivers, lakes, and mountains, and penetrated to the very heart of the continent. No region, however rich in soil, delicious in climate, or luxuriant in production, could tempt his stay. In vain the soft breezes of the tropics laden with aromatic fragrance wooed him to rest; in vain the smiling valleys, covered with spontaneous fruits and flowers, invited him to peaceful quiet. His search was still for gold; the accursed hunger could not be appeased. The simple natives gazed upon him in superstitious wonder and worshipped him as a god, and he proved to them an infernal one, terrible, cruel, and merciless. With bloody hands he tore the ornaments from their persons and the shrines from their altars; he tortured them to discover

hidden treasure, and slew them that he might search even in their wretched throats for concealed gold. Well might the miserable Indians imagine that a race of evil deities had come among them more bloody and relentless than those who presided over their own sanguinary rites.

"Now let us turn to the Pilgrims. They, too, were tempted, and had they yielded to the temptation, how different might have been the destinies of this continent! how different must have been our own! Previous to their undertaking the Old World was filled with strange and wonderful accounts of the New. The unbounded wealth drawn by the Spaniards from Mexico and South America seemed to afford rational support for the wildest assertions. Each succeeding adventurer returning from his voyage added to the Arabian tales a still more extravagant story. At length Sir Walter Raleigh, the most accomplished and distinguished of all those bold voyagers, announced to the world his discovery of the province of Guiana and its magnificent capital, the far-famed city of El Dorado. We smile now at his account of the great and golden city and the mighty, rich, and beautiful empire. We can hardly imagine that any one for a moment believed in their existence. At that day, however, the matter was received with the most implicit faith. Sir Walter professed to have explored the country, and thus gloriously describes it from his own observations:

"'I never saw a more beautiful country nor more lively prospects; hills so raised here and there over the valleys, the river winding into divers branches; the plains adjoining without brush or stubble, all fair, green grass; the deer crossing in every path; the birds towards the evening singing on every tree with a thousand several tones; the air fresh with a gentle easterly wind; and every stone we stopped to take up pronounced either gold or silver by its complexion; for health, good air, pleasure, and riches I am resolved it cannot be equalled by any region either in the East or West.'

"The Pilgrims were urged on leaving Holland to seek this charming country, and plant their colony among its Arcadian bowers. Well might the poor wanderers cast a longing glance towards its happy valley, which seemed to invite to pious contemplation and peaceful labor. Well might the green grass, the pleasant groves, the tame deer, and the singing birds allure them to that smiling land beneath the equinoctial line. But while they doubted not the existence of this wondrous region they resisted its tempting charms. They had resolved to vindicate at the same time their patriotism and their principles, to add dominion to their native land, and to demonstrate to the world the practicability of civil and religious liberty. After full discussion and mature deliberation they determined that their best objects could be accomplished by a settlement on some portion of the Northern continent which would hold out no temptation to cupidity, no inducement to persecution. Putting aside, then, all considerations of wealth and ease, they addressed themselves with high resolution

to their noble purpose. In the language of the historian, trusting to God and themselves they embarked upon their perilous enterprise.

"As I said before, I shall not accompany them on their adventurous voyage. On the 22d day of December, 1620, according to our present computation, their footsteps pressed the famous rock which has ever since remained sacred to their memory. Poets, painters, and orators have tasked their powers to do justice to this great scene. Indeed, it is full of moral grandeur; nothing can be more beautiful, more pathetic, more sublime. Behold the pilgrims as they stood on that cold December day. Stern men, gentle women, feeble children, all uniting in singing a hymn of cheerful thanksgiving to the good God who had conducted them safely across the mighty deep and permitted them to land upon that sterile shore. See here their upturned faces glow with a pious confidence which the sharp winter winds cannot chill nor the gloomy forest shadows darken.

'Not as a conqueror comes
They, the true-hearted, came.
Not with the roll of the stirring drum,
Nor the trumpet that sings of fame,
Nor as the flying came,
In silence and in fear.
They shook the depths of the desert gloom
With their hymns of lofty cheer.'

Noble and pious band! Your holy confidence was not in vain. Your 'hymns of lofty cheer' find echo still in the hearts of grateful millions. Your descendants, when pressed by adversity or when addressing themselves to some high action, turn to the landing of the Pilgrims, and find a heart for any fate, strength for any enterprise.

"How simple and yet how instructive are the annals of this little settlement! In the cabin of the 'Mayflower' they settled a general form of government upon the principles of a pure democracy. In 1636 they published a declaration of rights and established a body of laws. The first fundamental article is in these words: 'That no act, imposition, law, or ordinance be made or imposed upon us at present or to come but such as has been or shall be enacted by the body of freemen or associates or their representatives, legally assembled,' etc.

"Here we find advanced the whole principles of the Revolution, the whole doctrine of our republican institutions. Our fathers, a hundred years before the Revolution, tested successfully, as far as they were concerned, the principle of self-government, and solved the problem whether law and order can coexist with liberty. But let us not forget that they were wise and good men who made the noble experiment, and that it may yet fail in our hands unless we imitate their patriotism and their virtues.

"There are some who find fault with the character of the Pilgrims, who love not the simplicity of their manners nor the austerity of their lives. They were men, of course imperfect, but the world may well be

challenged to point out, in the whole course of history, men of purer purpose, of braver action; men who have exercised a more beneficial influence upon the destinies of the human race or left behind them more enduring memorials of their existence. At all events, it is not for the sons of New England to search for the faults of their ancestors. We gaze with profound veneration upon their awful shades. We feel a grateful pride in the country they colonized, in the institutions they founded, in the example they bequeathed. We exult in our birthplace and in our lineage. Who would not rather be of the Pilgrim stock than claim descent from the proudest Norman that ever planted his robber blood upon the halls of the Saxon, or the noblest Paladin that quaffed wine at the table of Charlemagne? Well may we be proud of our native land, and turn with fond affection to its rocky shores. The spirit of the Pilgrims still pervades it and directs its fortunes. Behold the thousand temples of the Most High that nestle in its happy valleys and crown its swelling hills. See how their glittering spires pierce the blue sky, and seem like so many celestial conductors, ready to avert the lightning of an angry heaven. The piety of the patriarchs is not yet extinct, nor have the sons forgotten the God of their fathers.

"Behold yon simple building near the crossing of the village road. It is small and rude, but stands in a pleasant and quiet spot. A magnificent old elm spreads its arms above, and seems to lean towards it as a strong man bends to shelter and protect a child. A brook runs through the meadow near, and hard by there is an orchard, but the trees have suffered much and bear no fruit, except upon the most remote and inaccessible branches. From within its halls comes a busy hum, such as you may hear in a disturbed bee-hive. Now peep through yonder window and you will see a hundred children, with rosy cheeks, mischievous eyes, and demure faces, all engaged, or pretending to be so, in their little lessons. It is the public school, the free, common school, provided by law, open to all, claimed from the community as a right, not accepted as a bounty. Here the children of rich and poor, high or low, meet upon perfect equality, and commence under the same auspices the career of life. Here the sustenance of the mind is served up to all alike, as the Spartans served their food upon the public table. Here young ambition climbs its little ladder and boyish genius plumes his half-fledged wings. From among those laughing children will go forth the men who are to control the destinies of their age and country, the statesman whose wisdom is to guide the Senate, the poet who will take captive the hearts of the people and bind them together with immortal song, the philosopher who, boldly seizing upon the elements themselves, will compel them to his wishes, and through new combinations of their primal laws, by some great arising, revolutionize both art and science.

"The common village school is New England's fairest boast, the brightest jewel that adorns her brow. The principle that society is bound for its members' education as well as protection, so that none need be ignorant

except from choice, is the most important that belongs to modern philosophy. It is essential to a republican government. Universal education is not only the surest and best, but the only sure foundation for free institutions. True liberty is the child of knowledge. She pines away and dies in the arms of ignorance. Honor, then, to the fathers of New England, from whom came the spirit which has built a school-house by every sparkling fountain, and bids them all come as freely to the one as to the other. All honor, too, to this noble city, who has not disdained to follow the example of her Northern sisters, but has wisely determined that the intellectual thirst of her children deserves as much attention as their physical, and that it is as much their duty to provide the means of assuaging the one as of quenching the other.

"But the spirit of the Pilgrim survives not only in the knowledge and piety of their sons, but most of all in their indefatigable enterprise and indomitable perseverance. They have wrestled with nature till they have prevailed against her, and compelled her reluctantly to reverse her own laws. The sterile soil has become productive under their sagacious culture, and the barren rock, astonished, finds itself covered with luxuriant and unaccustomed verdure. Upon the banks of every river they build temples of industry and stop the squanderings of spendthrift waters. They bind the naiads of the brawling stream. They drive the dryads from their accustomed haunts and force them to desert each favorite grove, for upon river, creek, and bay they are busy transforming the crude forest into stanch and gallant vessels. From every islet or indenture along the rocky shore swim forth these ocean birds, born in the wild-wood, fledged upon the wave. Behold how they spread their white wings to the passing breeze and wing their flight to every quarter of the globe,—the *carrier-pigeons* of the world. It is upon the unstable element the sons of New England have achieved their greatest triumphs; their adventurous prowls vex the waters of every sea. Bold and reckless as the old northern Vikings, they go forth to seek their fortunes in the mighty deep. The ocean is their pasture, and over its wide prairies they follow the monstrous herds that feed upon its azure fields. As the hunter casts his lasso upon the wild horse, so they throw their lines upon the tumbling whale. They 'draw out leviathan with a hook,' they fill his skin with barbed iron, and in spite of his terrible strength, 'they part him among the merchants.' To them there are no pillars of Hercules. They seek with avidity new regions, and fear not to be 'the first that ever burst into the unknown seas.' Had they been the companions of Columbus, the great mariner would not have been urged to return, though he had sailed westward to his dying day.

"Glorious New England! Thou art still true to thy ancient fame and worthy of thy ancestral honors. We, thy children, have assembled in this far-distant land to celebrate thy birthday. A thousand fond associations rush upon us, roused by the spirit of the hour. On thy pleasant valleys rest, like sweet dews of the morning, the gentle recollections of

our early life; around thy hills and mountains cling, like gathering mists, the mighty memories of the Revolution; and far away in the horizon of the past gleam, like thine own Northern lights, the awful virtues of our Pilgrim sires.

"But while we devote this day to the remembrance of our native land, we forget not that in which our happy lot is cast. We exult in the reflection that though we count by thousands the miles which separate us from our birthplace, still *our country* is the same. We are no exiles meeting on the banks of a foreign river to swell its waters with our homesick tears. Here floats the same banner that rustled above our boyish heads, except that its bright folds are wider and its glittering stars have increased in number.

"The sons of New England are found in every State of the broad republic. In the East, the South, the unbounded West, their blood mingles freely with every kindred current. We have but changed our chamber in the paternal mansion; in all its rooms we are at home, and all who inhabit it are our brothers. To us the Union has but one domestic hearth: its household gods are all the same. Upon us, then, peculiarly devolves the duty of feeding the fires upon that kindly hearth, of guarding with pious care those sacred household gods.

"We cannot do with less than the whole Union; to us it admits no division. In the veins of our children flows Northern and Southern blood. How shall it be separated? Who shall put asunder the best affections of the human heart, the noblest instincts of our nature? We love the land of our adoption; so do we that of our birth. Let us ever be true to both, and always exert ourselves in maintaining the unity of our country, the integrity of the republic. Accursed, then, be the hand put forth to loosen the golden cord of union!—thrice accursed the traitorous lips, whether of Northern fanatic or Southern demagogue, which shall propose its severance! But no, the Union cannot be dissolved; its fortunes are too brilliant to be marred, its destinies are too powerful to be resisted. Here will be their greatest triumph, their most mighty development. And when, a century hence, this Crescent City shall have filled her golden horns, when within her broad-armed port shall be gathered the products of the industry of a hundred millions of freemen, when galleries of art and halls of learning shall have made classic this mart of trade, then may the sons of the Pilgrims, still wandering from the bleak hills of the North, stand upon the banks of the great river, and exclaim, with mingled pride and wonder, Lo, this is our country! When did the world ever witness so rich, so magnificent a city, so great and glorious a republic?"

The reader will see in this great rhapsody the fervor of a genuine patriotism draped in the garb of poetry. It ought to be in the home of every son of New England. It produced a

profound impression at the time of its delivery, and Prentiss received great commendation for the beautiful effort. In spite of its lofty warning, his glorious predictions have been marred for generations at least. Perhaps, however, they may yet be realized in the distant future, when it will have been forgotten that it took hecatombs of human lives and millions of money to cement, or rather *weld* together this once glorious Union. The sincerity of Prentiss's convictions is shown by the fact that ten years before, when a member of the Mississippi Legislature, as has already been told, he advanced and sustained with thrilling eloquence the same high moral sentiments.

Highly estimated as this address was by his friends, how inestimably dear it must have been to his mother, who thus heard echoed from the banks of the Mississippi the same lofty sentiments which she had instilled into the young heart of her noble New England boy!

A few weeks after the delivery of this address he was called upon to speak upon a far different theme.

There is something romantic in the history of the Irish potato. Sir Walter Raleigh, attracted by a beautiful wild flower of America, merely because of its beauty, and little dreaming of the value of the bulb, transplanted it to England. Gradually it spread over this island and reached the soil of the sister island. There the genial soil gave it a marvellous yield. In the mean time it was found that, as a cynical Democrat once remarked of the aristocracy, "the best part of the thing was under ground." It grew and spread rapidly, and soon became the bread of the nation; indeed, it became so important a factor in the domestic economy of that island that it dropped the name of its nativity and took that of its adopted home. True to the characteristics of that people, its name, therefore, is an Irish bull, for the Irish potato is in reality the American potato naturalized in that island. The chief value of the esculent consisted in its marvellous yield per acre, its requiring but little cultivation, its ease of preservation, and its unfailing product. Other plants were liable to the rot, the rust, the fly, and other ills to which vegetables are heirs, but this hardy product for years seemed to defy blight. It thus became the bread of the peasantry; but at last

its turn for blast came, and in 1846-47 a murmur of apprehended failure of the crop was heard from across the waters. Gradually the murmur swelled into a prolonged wail, and the news burst upon our continent that the people of Ireland were starving. This struck a chord of sympathy throughout our teeming land, and, in response to the cry, the gates of charity all over our country were thrown wide open. Among the first to be "up and doing" was the "Crescent City." A public meeting was called during the winter of 1847. Henry Clay happened to be there, and, true to the unbounded generosity of his nature, raised his pleading voice in the cause of humanity. All eyes then turned to Prentiss, who, when Clay concluded, was called. The expectant crowd hung entranced upon his pathetic appeal. The outside world knew not the heavy sorrow that was pressing upon him in the impending dissolution of a beloved sister, but this fact added deeper pathos to his touching speech :

"Fellow-citizens :—It is no ordinary cause which has brought together this vast assemblage on the present occasion. We have met not to prepare ourselves for political contests, nor to celebrate the achievements of those gallant men who have planted our victorious standard in the heart of the enemy's country. We have assembled, not to respond to shouts of triumph from the West, but to answer to the cry of suffering which comes from the East. The Old World stretches out her arms to the New. The starving parent supplicates the young and vigorous child for bread. There lies upon the other side of the wide Atlantic a beautiful island, famous in story and song. Its area is not so great as that of the State of Louisiana, whilst its population is almost half that of the Union. It has given to the world more than its share of genius and greatness. It has been prolific in statesmen, warriors, and poets. Its brave and generous sons have fought all battles successfully but their own. In wit and humor it has no equal, while its harp, like its history, moves to tears by its sweet but melancholy pathos. Into this fair region God has seen fit to send the most terrible of all his fearful ministers who fulfil his inscrutable decrees. The earth has failed to yield her increase ; the common mother has forgotten her offspring, and her breast no longer affords their accustomed nourishment. Famine, gaunt and ghastly famine, has seized a nation with its strong grasp, and, unhappily, Ireland in the sad woes of the present forgets for a moment the glowing history of the past. We have assembled, fellow-citizens, to express our sincere sympathies for the sufferings of our brethren, and to unite in efforts for their alleviation. This is one of those cases in which we may without impiety assume, as it were,

the functions of Providence. Who knows but one of the very objects of this great calamity is to test the benevolence and worthiness of us upon whom unlimited abundance has been showered? In the name, then, of common humanity I invoke your aid in behalf of starving Ireland. He who is able and will not give to such a sacred purpose is not a man, and has no right to wear the form. He should be sent back to nature's mint, and reissued as a counterfeit on humanity's baser metal.

"Oh, it is terrible that in this beautiful world which the good God has given us, and in which there is plenty for us all, men should die of starvation! In these days when improvements in agriculture and the mechanical arts have quadrupled the productiveness of labor, when it is manifest the earth produces every year more than sufficient to clothe and feed all her thronging millions, it is a shame and a disgrace that the word *starvation* has not long since become obsolete, or only retained to explain the dim legends of a barbarous age. You who have never been beyond the precincts of our own favored country,—you more especially who have always lived in the great valley of the Mississippi, the cornucopia of the world, who see each day poured into the lap of your city food sufficient to assuage the hunger of a nation,—can form but an imperfect idea of the horrors of famine, of the terror which strikes men's souls when they cry in vain for bread. When a man dies of disease he alone endures the pain. Around his pillow are gathered sympathizing friends, who, if they cannot keep back the deadly messenger, cover his face and conceal the horrors of his visage as he delivers his stern mandate.

"In the battle, in the fulness of his pride and strength, little rocks the soldier whether the hissing bullet sings his requiem or the cords of life are severed by the sharp steel. But he who dies of hunger wrestles alone, day after day, with his grim, unrelenting enemy. He has no friend to cheer him in the terrible conflict, for if he had friends how could he die of hunger? He has not the hot blood of the soldier to maintain him, for his foe, vampire-like, has exhausted his veins. Famine comes not up like a brave enemy storming by a sudden onset the fortress that resists. Famine besieges. He draws his lines around the doomed garrison; he cuts off all supplies; he never summons to surrender, he gives no quarter. Alas for poor human nature! how can it sustain this fearful warfare? Day by day the blood recedes, the flesh deserts, the muscles relax, and the sinews grow powerless. At last the mind, which at first bravely nerved itself for the contest, gives way under the mysterious influences that govern its union with the body. Then he begins to doubt the existence of an overruling Providence; he hates his fellow-men and glares upon them with the longings of a cannibal, and, it may be, dies blaspheming.

"Who will hesitate to give his mite to avert such awful results? Surely, not you, citizens of New Orleans, ever famed for your deeds of benevolence and charity. Freely have your hearts and purses opened heretofore to the call of suffering humanity. Nobly did you respond to oppressed Greece

and struggling Poland. Within Erin's borders is an enemy more cruel than the Turk, more tyrannical than the Russian. Bread is the only weapon that can conquer him. Let us, then, load ships with this glorious munition, and in the name of our common humanity wage war against this despot—famine! Let us in God's name 'cast our bread upon the waters,' and if we are selfish enough to desire it, we may recollect the promise that it shall return to us after many days.

"If benevolence be not a sufficient incentive to action we should be generous from common decency, for out of this famine we are adding millions to our fortunes. Every article of food, of which we have a superabundance, has been doubled in value by the very distress we are now called upon to alleviate. We cannot do less in common honesty than to divide among the starving poor of Ireland a portion of the gains we are making out of their misfortunes. Give then generously and freely. Recollect that in so doing you are exercising one of the most Godlike qualities of your nature, and at the same time enjoying one of the greatest luxuries of life. We ought to thank our Maker that he has permitted us to exercise equally with himself that noblest even of the divine attributes—*benevolence*. Go home and look at your family, smiling in rosy health, and then think of the pale, famine-parched cheeks of the poor children of Ireland, and I know you will give according to your store, even as a bountiful Providence has given to you, not grudgingly, but with an open hand, for the quality of benevolence, like that of mercy,

'Is not strained.
It droppeth, as the gentle rain from heaven
Upon the place beneath: it is twice blessed;
It blesseth him that gives, and him that takes.'"

If the reading of that speech can bring tears to one's eyes even now, when the lips that uttered it have so long been silenced, what must its effects have been as it fell upon the ear in the silvery tone of the speaker? Never did a suffering client have a more eloquent advocate, or one who touched the chord of every sympathy with a more masterly hand. The responsive notes of the vast assemblage swelled into concord, and open-handed charity poured out of its abundance. A ship was freighted with the "munitions" of bread, and was soon wafted on its glorious mission from the city to conquer starvation. How beautiful and glorious is it to see a noble orator invoking his genius in the cause of humanity! It will be observed that the contrasts are drawn from the battle-fields. The speaker caught the hue from the surrounding circumstances of the time, for war was then raging with Mexico.

CHAPTER XIX.

SCARCELY had the echo of Prentiss's voice died away on the noble theme given in the last chapter ere he learned of the death of his sister. This, as we are told in the "Memoirs," was the first death in the family since that of the father, twenty years before. How he grieved is best told in the letter to his mother:

"My heart bleeds to the core as I sit down to mingle my tears with yours at the terrible misfortune which has befallen us. We have just received George's letter informing us of the sad event, which, however, we had for some time been anticipating. Still, though I thought I was prepared for it, I cannot realize that it is all over, that I shall never again, in this world, see our dear, dear Abby. So good, so affectionate, so resigned. She was the best of us all, and gladly would I have given my own life to have preserved hers. But we have consolation in our extreme grief, for she was so good that we know that she is now in heaven and freed from all care, unless it be that her affectionate heart is still troubled for us who loved her so well. We can dwell with satisfaction, after we have overcome the first sharpness of our grief, upon her angel-like qualities, which made her, long before she died, fit for the heaven where she now is. But what shall I say to you, my dearest mother? How shall I express the deepest sympathy I feel for your loss and your sorrow? All that I can say is that I partake of both. You have lost the purest, noblest, best of daughters, I, a sister who never, to my knowledge, did a selfish act or uttered a selfish thought. We will weep together, then, my dear mother, and when our tears shall be dried we will remember the virtues of our dear departed one, and find consolation even in our grief. You, my dear mother, must remember, too, that you have children still spared to you who love you with all their hearts, and who will strive, if possible, by increased affection, to make amends for the loss they cannot supply. And not only children, but grandchildren, who, though they have never seen, know and love you as if they had always lived with you. They speak of you every day, talk to your portrait, and love you as dearly as they do me. I know, then, my dear mother, you will gather consolation, both in thinking of the goodness and virtues of the dear one gone and of the affection and devotion of those who remain. No children on earth ever loved a mother more than yours love you."

After expressing the hope to be able to visit her in the summer, the letter closes :

"God bless you, my dear mother, and give you strength to bear up under your great affliction."

In a similar strain he wrote to his surviving sister :

"Oh, she was so good, so pure, so unselfish, so needed in this world, that it seems very hard that she should be taken from us. But I do not doubt it is better for the dear one herself, for she is now in heaven, beyond the reach of pain and care, and is even now looking back with pity and affectionate compassion upon our sufferings. How sweetly shall we cherish her memory ! It is a melancholy pleasure to recollect that we have always lived together in the bonds of love and affection. Never do I remember an unkind word or thought between dear Abby and any one of us. We can meditate upon her virtues and her sweet, unspotted life without a pang of regret. And after all, my dear sister, she has only commenced her journey a few days before us. We shall soon travel the same road. Would to God we were all as well prepared ! Indeed, it is for the living, not for the dead, that we have cause to grieve. Alas for dear mother ! my heart bleeds for her, and I weep for her more than for the dear one who has gone to be an angel. What will poor mother do in her now desolate house ? May a kind Providence support her in her great affliction !"

Placing the above letters by the side of the great speech just quoted, in what a strong light do they show the nobleness and tenderness of his heart ! In one hour by the lofty strains of his eloquence opening the fountain of charity from a multitude, and in another pouring the balm of consolation into the bleeding hearts of his stricken mother and his only remaining sister.

It must be remembered, too, that he was still like a giant struggling in a bog. He had been compelled to pay in security debts alone from fifty thousand to one hundred thousand dollars. Every friend for whom he had endorsed seemed to have failed. What he had not paid he had been compelled to provide for by mortgaging his property. Still he struggled on, undaunted.

In the midst of all his difficulties and troubles he was still the willing slave of the public ; not a Dugald Dalgetty, to serve for pay, but a knight-errant of a spotless shield, always ready to couch his lance for the cause of patriotism or humanity. It will be remembered that he had opposed the measure that had

precipitated us into the Mexican war. His motto, both in public and private affairs, was,—

“Beware of entrance to a quarrel.
But being in, bear thyself that thine opposer
May beware of thee.”

When the war broke out he was for his country right or wrong, and was burning with a desire to volunteer himself, but the stern mandate of necessity forbade this. Thus debarred from physical co-operation, all that he could do was to inspire those that went with words of lofty cheer, and this he did.

The year 1846 was one of intense excitement throughout the United States. The annexation of Texas involved a dispute as to her boundary, and the first gun was fired upon the banks of the Rio Grande. Immediately volunteers were called for and flocked to the standard. The news from Palo Alto and Resaca de la Palma came booming across the continent. General Taylor with his little army moved forward, and in the hard-fought battles of Monterey and Buena Vista had covered himself with glory. The plan of the campaign was then changed, and General Scott was sent with his army to Vera Cruz, and there began his march to the capital of Mexico. Poets have sung of the achievements of that gallant army. Cherubusco, Chapultepec, Molino del Rey, and the Belen Gate, “whose toll was human life,” have all been *canonized* in story.

It was on the return, through New Orleans, of the volunteers of Taylor's army from Mexico, on the 11th of June, 1847, that the genius of Prentiss was invoked to give them welcome, which he did in the following address:

“Brave volunteers:—The people of New Orleans, filled with admiration for the patriotic and heroic achievements of our citizen-soldiers, are desirous of expressing the sentiments of joy, pride, and affection with which they hail their return to the arms of a grateful country. I am their honored organ on the occasion, and most warmly do I sympathize with their feelings and participate in their wishes.

“Welcome, then, ye brave volunteers; ye war-worn soldiers, welcome home! The heart of Louisiana warms towards you; welcome, thrice welcome, from your glorious battle-fields! In the name of the citizens of New Orleans I greet and embrace you all. No longer do you tread upon

a hostile shore or gaze upon a foreign sky ; useless now are your sharp swords and unerring rifles. No lurking foe waylays you in the impenetrable chaparral or among the gloomy gorges of the mountain. Henceforth your path will be ambushed only by friends. You will find them more difficult than the enemy to quell. They will pour upon you volleys of grape as you pass ; not the grape whose iron clusters grew so luxuriantly on the hill-sides of Monterey or along the ravines of Buena Vista, whose juice was the red blood, but the grape which comes from the battery of the banquet. A year has not elapsed since I saw most of you bivouacked on the old battle-field below the city, drawing inspiration from its mighty memories and dreaming, perchance, of those great achievements which you were so soon to accomplish. Since then you have passed through all the vicissitudes of a soldier's life,—the camp, the march, the battle, and the victory. You have played your parts nobly. You have gone far beyond your own promises or the country's expectations. You have borne without a murmur the hardships of military life ; however fatigued and exposed, you blanched not when death came in the shape of disease and struck down your comrades around you. You submitted cheerfully to discipline, and converted the raw material of individual bravery into the terrible, irresistible power of combined courage. But it was upon the legitimate battle-fields you gathered those unfading laurels upon which your countrymen will ever gaze, as they do now, with grateful pride.

"Our little army of regulars, as they well deserved to do, had already plucked the first fruits of the war. On the victorious fields of Palo Alto and Resaca de la Palma they sustained their own high character and nobly illustrated American skill and valor. They scourged the enemy from the Rio Grande, and then, reinforced by the volunteers who flocked to their country's standard, their great captain meditated the conquest of the stronghold of Monterey. There, like an eagle on his eyrie, stood the mountain king. Thither the eyes of the nation turned in eager expectation. All hearts palpitated for the result. Now was our national prowess to be tested. Now were we to ascertain whether we could cast back in the teeth of European generals and European diplomatists the taunts which they had heaped upon our citizen-soldiers. They had told us that our republic was weak, notwithstanding its great population and unbounded resources. They said we had no military strength, that our army and navy, though skilful and brave, were but a cipher compared with the mighty armaments of the Old World, and that our unpractised citizens could never make efficient soldiers. Soon came the glorious storming of the mountain fastnesses, and the problem was solved. The nation's heart beat free, and joy for the present, confidence in the future, pervaded the land. Indeed, it was a great and glorious achievement, and the moral effect, both at home and abroad, the most important of the war. It gave the country complete confidence in the volunteers, the volunteers full reliance upon themselves. From that day forth they became veterans. Time

will not permit me to recite the vivid heart-stirring incidents of that memorable and wonderful conflict. On the one side of the city the regulars fought as they always do, with skill, with bravery, and success. They did all that was expected of them. Their previous reputation rendered it impossible to do more. On the other side the volunteers drew their maiden swords. Never before had they experienced a grasp stronger than that of friendship. Now they stretched forth their hands and grappled with death. On, on pressed these unfledged warriors, these men of civil life, these citizen-soldiers; their bright blades flashed before them like tongues of flame. Up the hill-side, through the streets swept by raking cannon, over barricade and battery, their advancing banners, streaming like thunder-clouds against the wind, rustled in the battle-breeze like the pinions of an eagle pouncing upon his quarry. All know the glorious result. The enemy, though he fought bravely for his firesides and his altars, and in the midst of his supposed impregnable defences, shrunk from such fiery valor. The day was ours, and the republic acknowledges its debt of gratitude to the gallant volunteers. Welcome, then, thrice welcome, victors of Monterey!

"But the fortune of war determined that your conduct and valor should be tested upon a yet bloodier field. At Buena Vista you met, face to face, the genius of battle, even as he appeared to the warrior bard:

'Lo! where the giant on the mountain stands,
His blood-red tresses deepening in the sun,
With death-shots glowing in his fiery hands
And eye that scorches all it glares upon.
Restless it rolls, now fixed, and now anon
Flashing afar, and at his iron feet
Destruction cowers to mark what deeds are done.'

Under that hot gaze in the fierce conflict, where desperate courage was put to its utmost proof, all fame unites in saying that you covered yourselves with immortal honor. In a pitched battle with brave and veteran troops, outnumbering you four to one, during two days, you made successful contest, you stood a living dyke, and again and again poured upon you the fiery torrent. "'Twere worth ten years of peaceful life' to have witnessed you repulsing the audacious squadrons of the enemy, as with pennons flying and serried lances they came thundering upon your unflinching ranks. Often in the changing currents of the moody fight, when the fortune of the day rent from our standard, fluttered like torn canvas in the gale, you seized and fastened it back to its proper place. But we should do injustice did we not remember those glorious comrades without whose co-operation your valor would have proved in vain. I mean the artillery, those true sons of thunder, who on that day seemed to scorn to use Jove's counterfeit and hurled his genuine bolts. Never were cannon served with greater coolness or more fatal precision. At each discharge whole columns were cut down.

'Even as they fell in files they lay,
Like mower's grass at close of day,
When his work is done on the level plain.'

Honor, then, to your brave comrades! We wish they were here to share your welcome, heroes of Buena Vista.

"But you have still another claim upon our regard,—the love and confidence of your general. To have your name associated with his is *itself* renown. He has achieved a world-wide fame. The whole nation looks upon him with admiration and affection, and twenty millions of people love and confide in him, and right well does the brave old man deserve these great honors. A true patriot, he has never obtruded himself upon the country. When his services were needed he rendered them. The nation knew not the treasure it possessed until the emergencies of the last year developed it. Now we know we have that gift of a century, a general cool, sagacious, prudent, brave, and humane, capacious in resources, simple in habits, modest in manners, and, above all, possessed of the rare capacity of infusing into those around him his own indomitable courage and determination. These are the qualities which have rendered General Taylor and his armies invincible. They are of the true old Roman sort, such as might have belonged to a consul in the best days of the ancient republic. It is no small honor to have fought under the eye and received the commendation of such a soldier. Welcome, then, thrice welcome, companions of the great captain in those wonderful engagements whose rapidity and brilliancy have astonished the world. Gentlemen, you have before you a happy destiny. Yours have been no mercenary services. Prompted by patriotism alone, you went forth to fight the battles of your country. You now voluntarily return to the pursuits of civil life. Presently you will be engaged in your ancient occupations. But you will not be without the meet reward of patriotic service. Your neighbors will regard you with respect and affection. Your children will feel proud whenever they hear mention made of Monterey and Buena Vista, and a grateful nation has already inscribed your names upon its annals. Indeed, it is a noble sight, worthy of the genius of this great republic, to behold at the call of the country whole armies leap forth in battle array, and then, when their services are no longer needed, fall quietly back and commingle again with the communities from whence they came. Thus the dark thunder-cloud at nature's summons marshals its black battalions and lowers in the horizon; but at length, its lightnings spent, its dread artillery silenced, its mission finished, disbanding its frowning ranks, it melts away in the blue ether, and the next morning you will find it glittering in the dew-drops among the flowers or assisting with its kindly moisture the growth of the young and tender plants. Great and happy country, where every citizen can be at once turned into an effective soldier, every soldier converted forthwith into a peaceful citizen.

"Our regular troops are unsurpassed for skill and courage. Led by

their gallant and accomplished officers, they are invincible. All that science and valor can do they have achieved. At Vera Cruz and Cerro Gordo they have plucked new laurels, worthy to be entwined among those gathered on the fields of Palo Alto and Resaca de la Palma. But it is their business to be brave. It is their profession to fight. We honor the army, but we look upon our citizen-soldiery with a different and peculiar pride. They are part and parcel of ourselves. They have taught us the secret of our vast strength. We now know the mighty nerve and muscle of the republic. We evoke armies as if with magic rapidity, as they came forth from the sowing of the dragon's teeth. At a nod they disappear as though the earth had swallowed them up. But they are not gone: you will find them in the forest, in the workshop, in the chambers of the sick, at the bar, in the councils of the country. They have returned to their old professions and pursuits. Let but the trumpet sound, and again they spring up a crop of armed men. Proudly do we tell the world that we have, whenever occasion calls, two millions of warriors like those who stormed at Monterey and conquered at Buena Vista. Welcome, then, citizen-soldiers; welcome, soldier-citizens!

"But, alas! the joy of our meeting is mingled with sorrow. We gaze upon your thinned ranks and seek in vain for many faces. Why come they not from the battle-field? Why meet they not the embraces of their loving friends? A year ago I saw them march forth beneath their country's banner, full of lusty life, of buoyant hearts, and noble emulation. Where are they now? Where is brave McKee, impetuous Yell, chivalrous Clay, and gallant Watson, with hundreds of their noble comrades whom we meet not here? Ah, I see it all. Your laurel-wreaths are thickly entwined with the cypress: the dead cannot come to the banquet. Alas, alas, for the noble dead! If we cannot welcome them, we can weep for them. Our tears fall fast and free; but they flow rather for the living than for the dead, for the nation that has lost such worthy sons, for the desolate firesides bereaved of their cherished and loved ones, for the bowed father, the heart-broken mother, the sobbing sister, the frantic wife, and the wondering children. For them we weep, but not for the heroic dead. We envy their fate. Gloriously did they die, those who rendered up their souls in battle. They fulfilled the highest duty mankind owes to the world,—they died for their country. They fell upon stricken fields which their own valor had already half won. The earthquake voice of victory was in their ears, and their dying gaze was turned proudly upon the triumphant stars and stripes. Honor, eternal honor to the brave who baptized their patriotism in their blood.

"But there are others who equally claim a place in our sad remembrance. I mean those who died from disease, whose fiery hearts were extinguished in the dull camp or on the gloomy march. It is easy to die in battle. The spirit is stirred to a courageous madness by the rushing squadrons, the roaring cannon, and the clashing steel. All the fierce instincts of our

nature are aroused, and the soldier seeks for death as the bridegroom seeks his bride. Besides,

‘Fame is there to mark who bleeds,
And Honor’s eye on daring deeds.’

But to waste away with sickness, to be crushed by the blows of an unseen enemy with whom you cannot grapple, to know death is approaching slowly but surely, to feel that your name will occupy no place on the bright scroll of fame, thus, without any of the pride and rapture of the strife, to meet bravely the inevitable tyrant, is the highest test of the soldier’s courage, the strongest proof of the patriot’s devotion. Honor, then, immortal honor to the brave who fell not on the battle-field, but before the shafts of disease.

“Gallant gentlemen, you will soon leave us for your respective homes. Everywhere fond and grateful hearts await you. You will have to run the gauntlet of friendship and affection. The bonfires are already kindling upon the hills. In every grove and pleasant arbor the feast is spread. Thousands of sparkling eyes are eagerly watching for your return. Tears will fill them when they seek in vain among your thinned ranks for many a loved and familiar face, but through those tears will shine the smile of joy and welcome, even as the rays of the morning sun glitter through the dew-drops which the sad night had wept. Again, in the name of the citizens of New Orleans, I bid you welcome. When you leave us you will carry with you our admiration, our gratitude, and our affection.”

How little do we short-sighted men foresee the future! How little do we dream, when composing sentences of pathos, that we may be describing scenes in which our own loved ones may, in after-years, have to pass! The most touching part of this address, that of the death of the soldier from disease, was, in after-years, realized in another darker, deeper, bloodier war, and the noble son of the illustrious orator himself was the victim.

Prentiss had been educated in a political school whose cardinal doctrine was a dread of military heroes. He thus epitomizes his views on the subject:

“Before you get this you will have heard of General Scott’s new victory over the Mexicans. I pity the poor devils, they defend their country so miserably. It is certain that the Anglo-Saxon is a warlike race, but I fear serious evils will result from this successful development of its military instincts. Indeed, the evils are already obvious. The toga gives place to the sword. Forty years in the civil councils of the nation are held as naught when compared with a few weeks or months of successful generalship. What a spawn of prosperous demagogues will crawl out of

the ooze of these subsiding armies! From a corporal to a general they will claim all the honors and offices of the government. I admire the character of General Taylor as much as any man, but I have great contempt for the giddiness of the people who wish to make him President, for no other reason than that of his being a successful warrior. I presume he is the best specimen of a general to be found, but to put aside all the statesmen of the country for the purpose of placing him in an office in which his military capacity can be of no service is worse than ridiculous. However, I feel but little interest in politics nowadays, and care but little what the silly sovereigns do."

It will be seen farther on how he struggled to sustain these views, but how, when they were overruled, he fell into line and did yeoman's service for the gallant old hero.

During the summer of 1847 the scourge of the tropics burst upon the devoted city of New Orleans and raged with fatal violence. Mr. Prentiss had intended spending his summer in the city, but about the middle of July his family came up to the old home, "Longwood," and he followed them in August. Strange to say, although he required rest, he wrote that he was anxious to get back to his labors, for, though he was enjoying himself, it was "too easy a life" for him. It is ever thus with men of action and men of genius, the volcanic fires burning within them may smoulder now and then, but they are ever bubbling up for another eruption. He found Natchez as dull as a deserted village, the monotony being only occasionally relieved by festive parties, one of which took place at "Arlington," the home of his college-chum, Boyd.

Prentiss's chief delight was in the quiet pleasures of "Longwood" in the society of his family. The children who, when they left New Orleans, were pale, had now bloomed into health, their faces were brown and rosy, and they were as wild as so many little deer. "I wish you could see them playing together," he wrote to his mother; "they are very fond of each other; and J. and G. perfectly dote upon S. They are all, too, very fond of me, especially G. They say he is my favorite, but I love them all so well that I hardly feel that I have any preference." These quotations culled from his letters to his home give an insight into the depth of his affections.

And here let me say, once for all, that the letters of this

wonderful man to his mother, sisters, and brothers, that have been embalmed in the "Memoirs" by his pious brother, are perfect models of filial and fraternal affection. *No one* can read them without being impressed by their sincerity, and no one, old or young, can rise from their perusal without having been made the better thereby. Whether they be grave or gay, whether indulging in the genial play of wit or pouring out the oil of consolation, whether raising us to a smile or moving us to tears, they are such letters as only *he* could write; the same might be said of them as what Byron said in looking over some verses of Gray's, rejected by that poet himself,—“the *shavings* of Gray are better than the *timber* of other poets,”—and we can truthfully assert that the fireside letters of Prentiss—unlinked from his fame as an orator—are enough to immortalize his name; I say this calmly, soberly, and deliberately. What son, on reading his letters to his mother, does not feel his heart swell with the emotions of filial affection? What brother, in reading his letters to his brothers and sisters, does not feel the holy tie of brotherly affection strengthened? What husband, when reading his letters to his wife, does not renew the sacred vow of conjugal fidelity? What father's heart, in reading what he says of his children, does not melt into increased tenderness for the children whom God has given to him? Well may we say the penates of Prentiss are festooned with the blossoms of affection that will forever shed their fragrance around his memory.

In the sacred spot of “Longwood” he spent the summer, and it was probably the longest *resting spell* which he had ever enjoyed since his first landing in Mississippi. It is a summer tinged with sadness for me, for it was the last time I ever saw him. As I lift my eye from the paper on which I write, I can see the spot where we parted,—to me his appearance seemed changed from that of his former self; he had a careworn look, although his face lit up by its usual smile of greeting; it was a brief salutation, a short communion, a parting good-by,—never to meet again! After quietly spending his summer siesta, he returned to New Orleans in November, in advance of his family, and once more put on his heavy armor.

The estimation in which he was held by the members of the

bar is shown by the fact—to use his own modest words—that he was “complimented by the solicitations” of the principal members of the bar and all the other professors to take a professorship in the faculty of law in the university of the State, rendered vacant by the death of Mr. Wilde. The department offered to him embraced lectures on international law and equity. Mr. Prentiss looked upon the request as quite flattering, considering the short period of his residence in the city. Upon reflection, however, of the amount of time the preparation of lectures would take from his regular professional business, he had to decline the proffered honor. We can but pause in the narrative to utter a sigh of regret that he did not accept the position, and can well imagine what a stream of legal lore would have flowed from such a copious fountain.

His family joined him in December ere the new house was completed, and he playfully alludes, in his letters of that date, to his constant state of jeopardy among piles of disorganized furniture and rolls of entangled and treacherous carpet; his whole energy, as he says, was directed to a practical application of the old maxim “*In medio tutissimus.*” But his household divinity presided serenely over chaos and the discordant elements of house-keeping, and they soon became obedient to the law of order and crystallized into their appropriate forms.

CHAPTER XX.

IN the course of Prentiss's practice a case involving the question of fraud happened to pass into his hands. In his argument of the cause he was unusually severe upon the opposite party. The papers had announced that there was to be "a skinning of the alligator," and many were present to enjoy the fun and excitement. The argument attracted a great deal of comment and attention. As soon as the son of the party on whom the onslaught was made heard of it he posted to New Orleans and demanded satisfaction, according to the code of honor.

Prentiss was in great perplexity, not to say distress, at his situation, which was rendered the more peculiarly painful from the fact that the challenger was a grandson of Henry Clay, for whom, as we have seen, he entertained a filial veneration. Moreover, he could not but approve of and admire the spirit of the boy who would step forward to defend the reputation of his father. Some of Mr. Prentiss's friends advised him that, as he had spoken in his professional character, he could not be made amenable. But he thought differently. Fortunately, he was wise in the selection of a friend to act as his second. Baillie Peyton thus describes the interview :

"I advised him at first to decline the challenge, on the ground that what he said was in the discharge of a professional duty, etc. Failing to satisfy him, I at length persuaded him to postpone action, consider the matter that night, and give me his determination next morning. When the morning came he decided to accept the call, saying he could not deny the *right of a son* to take up a father's quarrel, without regard to its merits. At my request he associated with me Mr. Bullitt, of the New Orleans *Picayune*, who, from his intimate personal relations with some of the other party, I was confident would prove a powerful auxiliary in the object nearest my heart, an amicable settlement of this affair.

"This was, in all respects, a most disagreeable affair to us both. Henry Erwin was not only a mere youth, some twenty years of age, acting, too, from the noblest impulses, but he was the grandson of Henry Clay (whose

name he bore, and whom he greatly resembles), a statesman admired by us both beyond all others. Not only so, but Mr. James Erwin (the father) was the brother of Mrs. John Bell, of Tennessee, whose distinguished husband was my most intimate personal friend and political mentor, and both of whom were among the warmest friends and admirers of Mr. Prentiss." (The reader will remember how nobly John Bell stood by Prentiss in the Mississippi contested election.) "I was, moreover, very fond of Henry, who had visited me not long before and spent some days on my farm in Tennessee. Add to this the consequences of the fall of Mr. Prentiss (I had no apprehension on account of Henry Erwin) to his family, his friends, and his country, and you may form some idea of my distress. . . . I have said I was convinced that Henry Erwin stood in no danger, and although Mr. Prentiss did not tell me in so many words he would not shoot at him, yet I am well convinced, from the knowledge of the man and the admiration he frequently expressed of the *gallant boy*, as he termed him, that he would not have seen Henry fall by his hand for all the mines of California.

"I shall never forget the scene, calculated to try his patience and equanimity. It was on a cold Sabbath night, soon after he received his challenge. He came to my quarters and informed me that he had just been arrested at his own house, and that he was anxious to return as speedily as possible to save Mrs. Prentiss from alarm: she did not know the cause of his absence. We accompanied the officer, with the understanding that he would drive us to the residence of the recorder, there to arrange the matter of bail not to fight in Louisiana. But to our surprise we found ourselves in front of the principal prison. Here the officer stopped and refused to budge another inch, regardless of our persuasions and remonstrances. Finally, fearing I might lose my temper, Mr. Prentiss interposed, saying, in a good-humored tone, 'Well, Peyton, we will not fight the law.' So leaving him in the office or anteroom of the prison, I went in search of the captain of the watch.

"On my return I found Mr. Prentiss hovering over a few coals (it was very cold, and he came off without his cloak) with a strapping fellow who had been picked up towering near him. 'Well,' said I to Prentiss, 'this law of honor introduces us to strange bedfellows.' 'Yes,' he replied, 'I have endeavored to make my neighbor here feel at home, as I was the first squatter, but I can get nothing out of him; he takes me for a watchman.'"

At length Captain Winter arrived, and the parties were dismissed on their personal pledges to return and give bail, which they did on the next day.

His life-long friend, Colonel Richard T. Archer, accidentally arrived in the city on his private business, not having heard of the difficulty before his arrival. He says,—

"It was said there were nine challenges already written for him. He called at my hotel, accompanied by Baillie Peyton. I expressed my disapprobation of his accepting a challenge from so young a man, and I found he labored under the belief that it was the only mode by *which* he could avoid involving his friends or could avoid a street affray. He was ever too generous and brave, and I immediately determined that our mutual friend, General Felix Huston, should be present. . . .

"When Huston arrived he and myself had much conversation apart from Prentiss. We both feared he would stand up and be shot at, without purpose of returning Erwin's fire. Huston feared that there was little to choose between his doing this or killing his antagonist. 'For,' he said to me, 'if Prentiss kills Erwin, I know his acute sensibilities so well, that I tell you I will bring him back a raving maniac.' Thinking it suicidal that he should stand to be shot down, and that it was unjust to an antagonist to subject him to the chances of taking the life of an unresisting man, I expostulated with Mr. Prentiss, as though I knew he did not intend to fire. After we left New Orleans I renewed the subject when we were alone. He thus replied to me: 'My wife has packed up my clothes and bandages and everything I can possibly want' (among his things was a Bible given to him by his mother), 'and has not said one word to alter my purpose, though almost speechless with feeling, and this time, Archer, I will fight for my wife and children, *not for myself.*' "

Who can paint the intense agony of the parting hour between the husband and wife? The Christian wife can appreciate the pathos of feeling and pain portrayed in the following extract :

"My faith in God never wavered for a moment, and I said, 'Though he slay me, yet will I trust in Him.' I knew it in the beginning, yet could not raise my finger. For two weeks I was in this condition, and couldn't eat, sleep, or do anything but pray, weep, and read my Bible."

Thus weeping, thus praying, thus seeking strength from the Book of books, she, with a breaking heart, prepared those bandages which were possibly to stanch his death-wounds, those clothes which possibly might be cerements for the grave. But all unseen to mortal eye, all unheard by mortal ear, those prayers were ascending, and unseen angels were whispering suggestions to those in whose hands the fate of the husband was held.

Fortunately, the American code of honor had amended the Irish code in allowing an adjustment, even after a challenge had been passed. The mutual friends of the parties strained every

nerve to bring about a settlement. With this view the challenge was withdrawn, and the matter referred to two gentlemen, who made the following award:

"PARR CHRISTIAN, February 18, 1848.

"The difficulty between Mr. Prentiss and Mr. Erwin having been referred to us by their respective friends for settlement, we are of opinion that Mr. Prentiss travelled out of the record in the use of the offensive expressions complained of. It is, therefore, the duty of Mr. Prentiss cheerfully, frankly, and fully to retract the offensive expressions to which Mr. Erwin has taken exceptions.

(Signed)

"B. F. HARNEY,

"E. WARREN MOISE."

"On the part of Mr. Prentiss we agree to the above award and retract the offensive expressions.

(Signed)

"BAILLIE PEYTON,

"A. C. BULLITT."

The following noble letter, written immediately after the adjustment, tells the story of the inmost feeling of the actor himself. It bears the same date as the award, and is addressed to Robert Johnson, the second of Mr. Erwin:

"ROBERT JOHNSON, Esq.

"DEAR SIR,—I am sincerely gratified that the difficulty between Mr. H. C. E. and myself has been amicably adjusted. From the beginning of this affair I have not entertained an unkind feeling toward H. C. E. On the contrary, I honor and appreciate the sentiments by which he has been actuated, and under similar circumstances should have acted as he has done.

"I can now say frankly what might have been attributed to improper motives. I disclaim all personal or improper feelings in the matter out of which this controversy arose, as well as all knowledge or approval of the newspaper publications in relation to my remarks. I respond fully to the high and honorable sentiments which have marked your course in this matter, as well as that of your associates, and it gives me pleasure to acknowledge the same.

"Very respectfully, your obedient servant,

"S. S. PRENTISS."

The antagonists, it will be perceived, stood on this, what might have been, day of doom upon the shores of the Gulf of Mexico, and were saved by their wise friends from the verge of another gulf,—that of ruin. Of all the beatitudes that fall on mortal ears none vibrate with more sympathy to the human

heart than "Blessed are the peace-makers!" It will be remembered that years before Prentiss had entitled himself to this blessing, and now, as the bread cast upon the waters, it had come back to him.

Colonel Archer tells how he was received at home :

"On our return to the city I was told that Mrs. Prentiss had fainted as *he* left the house. It was a week of intense feeling to us all. When I looked upon the reunion of husband and wife, of parent and children, I was myself as very a child as was present."

The joy that filled the hearts of his own family, too deep for utterance, was echoed all through the city, and indeed, it may be said, throughout the Union. Henry Clay wrote letters of congratulation :

"I seize, my dear Prentiss, the first moment after my return home to express to you my thanks and gratitude for the generosity and magnanimity displayed by you in the amicable adjustment of the difficulty which had arisen between you and my grandson, H. Clay Erwin. This event, my dear Prentiss, has added a new cement to the friendship which has existed between us, and on which I have ever placed the highest value.

"I request you to present my affectionate regards to Mrs. Prentiss ; and how can I think of her and your interesting children without entreating you never to hazard a life so dear to them and so precious to all your friends, but to none more than your faithful friend ?"

The reader will perceive that Baillie Peyton gave a true picture of one of the phases of Prentiss's character : "There never lived a man more prompt to make the *amende honorable*, when deserved, than S. S. Prentiss," and an apology from him was made in a style so courtly and chivalrous as to elevate him in the estimation of the one to whom it was offered. Such was the effect of the beautiful note which he voluntarily addressed to the other party, after the settlement, that those who came to the place the most excited against him left there his warm admirers and eulogists.

In addition to what has already been related, I will give a statement from a letter just received, dated April 13, 1882, from the surviving second of young Erwin, Colonel Robert A. Johnson, of Louisville, Kentucky, in reply to a letter of inquiry from me :

"The reconciliation between Mr. Prentiss and young Erwin was *cordial*. I was informed by Mr. Baillie Peyton that Mr. Prentiss had expressed a wish to know Henry Erwin, when I replied, 'I will take Henry to see him.' Peyton said, 'No; Mr. Prentiss does nothing by halves. He wishes to come here.' And he did come to our hotel, and I introduced the reconciled foes. The meeting and conversation between them was *polite, cordial, friendly*. They drank together, and the past left no *poison*. I do not think the principals returned to New Orleans in the same boat, if so, Mr. Prentiss retired to rest early. Erwin is no more, having departed this life nearly twenty years ago."

This testimony of a distinguished gentleman who followed in after-years the fortunes of the "lost cause" with gallantry, and evinced on the battle-fields of his country the same cool courage that he showed on the field of honor, is a fitting close to the narrative of the unfortunate difficulty.

It will be seen that in the whole affair Mr. Prentiss exhibited the loftiest type of moral courage. He was brave enough, when the challenge was lifted, frankly to retract and apologize for the offence he had given. Let his course be a beacon-light to warn others of the legal fraternity to be guarded in their words; but if, in the heat of debate, they go too far and say too much, let them, like Prentiss, frankly acknowledge their having done so.

CHAPTER XXI.

IN the upheaval of society caused by war it is generally true that the *first* heroes attract mostly the public gaze, their feats are the first to catch the rays of a dawning reputation, which brighten as the sun rises into an enduring fame. It was thus with the first hero of the Mexican campaign. The eyes of many were fixed upon him as a man fit for the Presidency. A singular state of political feeling was developed, some old Whigs and Democrats professed themselves tired of party strife and said, "Let there be peace between us. Let us have a political millennium."

Some primary meetings were held under this programme. I remember one which was held at Fayette. A young gentleman was interviewed and requested to act as chairman. At first he demurred, and candidly expressed his opinion that such a consummation, although devoutly to be wished for, was utterly impracticable; finally, however, being much persuaded, he consented to preside. The meeting was held, homologating resolutions passed unanimously, and then, of course, the beautiful bubble burst. Years went by, the chairman had almost entirely forgotten that such a meeting had ever been held, when it was all vividly brought back to his mind by a rather singular circumstance. A friend, twenty-five years afterwards, unwittingly sent him a package put up in one of the newspapers of that day, and in it was an account, *in extenso*, of the meeting, duly signed by him as chairman. Who that chairman was it is needless to say.

Mr. Prentiss, from the first, was one of those who was not to be dazzled by military reputation. He was educated in the political school to prefer the wisdom of a civic statesmanship to the glare of military renown in selecting a man to sit at the helm of state. He gave due credit to General Taylor for his military genius, for his purity of character, and his modesty, but

he doubted his fitness; not on account of his want of intellectual capacity or intelligence, but simply because he had devoted his life to the art of arms, he had been trained in the field and not in the forum.

The "Independents" of Louisiana were in favor of running Taylor for President without submitting his name to a national convention. Prentiss, apprehending that disaster might result from such a course, once more threw himself in the breach. A meeting for the purpose of nominating delegates to the Whig national convention was held at New Orleans on the 22d of February, 1848. I copy from the "Memoirs" a skeleton sketch of the address Prentiss made on the occasion:

"Fellow-Whigs:—I came here to-night to perform my duty as a good Whig desirous of promoting the harmony and united action of our great and noble party. Though I have mingled deeply in the political contests of a neighboring State, yet since my residence in this city private duties and interests have withdrawn me almost wholly from public affairs, and it is with no aspirations beyond the position of a mere private in the ranks that I appear among you to-night. I am still a devoted, enthusiastic Whig, such as I have ever been since I have learned to distinguish between right and wrong, and such as I expect to be when the grave shall demand my mortal frame.

"I understand it to be the object of this meeting to secure a representation in the national convention, which is to determine to whom our glorious Whig banner shall be confided in the coming contest. We must all yield mere *personal preferences in the greater good of our party*. We have come together to offer up our private affections and partialities upon the altar of Whig harmony. As an old Whig, who has never deserted his standard or turned his back upon the enemy, I am here to give my humble counsel in furtherance of this design. I have been among the strongest opponents of conventions, but all must be convinced that at present they cannot be dispensed with. What is mere personal action in a great political contest but the folly of the soldier who at Buena Vista would have shouldered his musket and gone forth alone against the serried ranks and bristling bayonets of the Mexican host? It is only by keeping together, by *preserving the touch of the elbows*, that success is achieved in the day of battle, and so it is in a great political conflict, a Presidential election. We must act together, then. We must throw all our local and personal predilections into the crucible of a national convention, so that we may draw forth the pure gold and present it to the people for their admiration and enrichment. If the State of Louisiana could elect the President, I admit there would be no necessity for such consultation; but our sister States

have something to say in this matter, and their will and counsel must be heard, their right and influence should be acknowledged. We must not expect to force our individual preferences upon others. Had I the choice of a President, did it rest with me to indicate the successor of the present occupant of the Chief Magistracy, I should not be much puzzled to select. I should cling to my first love; I should shout aloud the name of that veteran statesman who has attained the very highest eminence on the pedestal of fame; under whose banner I have been so often proud to fight, whose white plume I have so often followed in battle, when, like that of the gallant Henry of Navarre, it tossed to and fro in the conflict, but never bowed to power nor stained by cowardice. I should give my vote for' (but ere the name had passed his lips there was a tremendous outburst from the crowd which shook the building and made the name of Clay reverberate through the immense room in tones of thunder). 'But' (he resumed when silence was restored) 'it is not for me to choose for the whole party. Fortunately, we have many noble leaders,—men adorned with all those high virtues and capacities which fit them for presiding over a free people. But the Whig party is laboring, I trust, for something more than the elevation of an individual. I understand it to be contending for the ascendancy and triumph of certain fixed and all-important principles. In spirit it has existed from the foundation of the government, and always must exist. It is the great conservative party of the country, by its position and moral power preserving the harmony and security of our political system. Holding fast to the golden mean, it would save the Constitution alike from the wild innovations of restless radicals and from the selfish schemes of calculating demagogues and placemen.

"The Whig party, I repeat, does not depend on any one individual alone. Persons are mortal, but Whig principles are eternal. Nor is it identical with any particular set of measures. The bank, the tariff, and other temporary issues do not involve the life of the Whig cause; these are questions of political policy which may be decided against us and yet Whig *principles* live on in their strength and salutary influence. It is only by destroying our public institutions that these great principles of public law and order and sound restraint, which I hold to be among the proper principles of the Whig party, can cease to exist and to have power in this nation. I am not ready to abandon such a party and such principles for the chimera of independent no-partyism. We shall rue the day when this no-party idea is carried out, when we have no political principles to contend for. Then the people, like a great giant, will lie down to sleep, while the demagogues carry on their nefarious purposes with impunity and success. God save us from such no-partyism! God save the Whig party from deserting its standard at this momentous epoch of public affairs! The conquest of a vast empire, the immense additions which have been made to our territory, and the necessity of governing this new acquisition through proconsuls, or other agents, will throw into the hands

of this government a power of corruption which, unless resisted by all the vigor, union, and strength of the Whigs, will be likely to *subvert both the Constitution and the Union.*

"I am in favor, then, of sending delegates to the national convention, not as Taylor nor as Clay men, but as good Whigs, devoted to the success and triumph of our party and our principles. If General Taylor should be the choice of that convention, I for one, whatever may have been and may now be my personal preference, should willingly fight under the banner of the brave old chieftain, the prestige of whose victories over a foreign enemy would give him irresistible strength before the people in a civil contest. I speak of General Taylor as a Whig, as a true Whig, whose principles and views are those of the great Whig party of the nation. Though devoted forty years to the occupation of a soldier, he has given such striking proofs of fitness for civil life that I for one should not fear to trust him with the delicate and responsible duties of the Presidency. But I have, I repeat, no confidence in the independent no-partyism which has lately exploded in this city. I don't believe we have yet reached a political millennium "*when the wolf shall dwell with the lamb and the leopard shall lie down with the kid.*"

"We have already seen the ardor of this independent no-partyism cool off in two weeks. Some of our friends were too quick on the trigger, but they have seen their error and are rapidly retracing their steps. When General Taylor was first named for the Presidency it was thought the movement would be acquiesced in by the Whigs all over the Union, but it turned out differently, and hence the necessity of a national convention. Let that convention act, and we will join heart and hand to give effect to its decision. The Whig party is certain of victory in every four or five chances. The Democrats will beat us at least three or four times in the Presidential contest, but they are sure to get things all wrong and to require Whig wisdom to set them right again. They will mismanage the engine and get the screws loose, but when things are so bad that they can't be made worse, then good Whig engineers will come in to restore order and efficiency and put the noble ship of state in the right track.

"In conclusion, then, let us go into the choice of our candidate in the spirit of harmony and mutual concession. The roll of our party abounds in names that would do honor to the Presidency. In our Whig firmament there are many stars. You may strike out a few and yet not leave us in gloom or darkness. We are like the fair lady who looks into her casket of jewels and is sorely puzzled which brilliant stone or glittering diamond shall adorn her lovely brow. Let us not be guilty of the folly of quarreling about individuals when we have great principles to guard and to contend for. Let the convention select Old Zach, and who of you will withhold his support, his warm and cordial support from one who has done so much for our national fame and character; one who has borne the stars and stripes a hundred miles into a hostile land, and whose heroic exploits

are yet surpassed by his gentle and humane virtues? But should the choice of the convention fall upon the great statesman whose civic laurels 'yield not in splendor to the brightest chaplet that ever bloomed upon a warrior's brow, what Whig will falter or hesitate in his support? Since the days of Washington what name has exerted so potent an influence upon the Whig party as that of Henry Clay? When has his clarion voice been heard that it did not kindle an ardor and zeal in all true Whigs greater than that aroused in a soldier's breast by the tones of the trumpet, the deep rolling of the drum, or the loud booming of the cannon? Here the speaker's voice was drowned in the shout, 'Hurrah for Clay!'

Prentiss was appointed at the head of the delegation, and was earnestly solicited to attend, but it was impossible. Mr. Clay was especially anxious that he should go, and wrote earnest letters, appealing to the great importance for his presence. Had he gone, there is no telling what an effect his thrilling appeals in favor of his favorite might have had, but these are now mere matters of conjecture.

As soon as the decision was made and Taylor announced as a candidate by the convention, Prentiss at once followed the counsel he had already given, and threw his whole weight into the contest.

"He stopped not for brake, he stayed not for stone,
He swam the broad river where ford there was none."

The reader will remember that Millard Fillmore, of New York, was the candidate for Vice-President on the ticket. They will also remember that he was with Prentiss in the memorable Congress of 1838, and heartily supported him in the struggle for his seat. From personal association, therefore, Prentiss could, *ex cathedra*, speak of the exalted character of this noble man. He writes in regard to this canvass:

"No man in the United States labored more vigorously in behalf of General Taylor than I did. Indeed, I've just now risen from a bed of sickness which I contracted by my exposure and exertions in the canvass. With regard to Fillmore, I did more than any man in this region. I had served with him in Congress, and my opinion, therefore, had greater weight. I denounced the various slanders that were circulated in this State against him in a manner which, while it tended to destroy their effect, threatened daily to involve me in dangerous personal difficulties."

Baillie Peyton, his *fidus Achates*, writes that he was present, and heard all his speeches in that canvass :

“To say that they were able and eloquent were but faint praise. They were *such as no other man could have made*. In the defence of Mr. Fillmore, who was greatly misrepresented at the South, and who was the weak point of our ticket in that section, he was almost irresistible. On this subject he spoke from personal knowledge, and with an ardor and earnestness that was conclusive with all unprejudiced minds.”

The younger reader needs to be told that at that time the people at the South were very sensitive on the subject of slavery. Whoever was tinged with the slightest suspicion that he was disposed to interfere with the rights of the Southerners to hold their slaves or to carry them into any of the unoccupied Territories of the United States was tabooed.

In the course of Congressional legislation a gentleman from Pennsylvania had proposed a proviso that slavery should be prohibited in the Territories. This proviso took its name from its author, Mr. Wilmot, and ever after went by the name of “Wilmot Proviso.” It gave great offence to the South when the Oregon bill passed containing this proviso, and President Polk’s signature thereunto gave a great lever in the hands of the Southern Whigs in replying to their Democratic brethren. This great sectional and social question was afterwards subdivided into four distinct branches. One party claimed the right to exclude slavery entirely from the Territories. These were the Free-Soilers. Another was for extending the Missouri Compromise line, 36° 30’, to the Pacific Ocean, as the dividing-line between free-soil and slavery. Another party claimed that the people of the Territory should settle this question for themselves. (This was Stephen A. Douglas’s theory, and was called “Squatter Sovereignty.”) Still another party claimed that the people could only determine this question when they came to form a State.

This question was the main one that afterwards brought on our civil war and rent the Union, but at the time of which we are speaking it was merely bubbling up and bursting at the surface, a premonition of the earthquake which was to follow.

The idea had in some way spread that Fillmore, to use a

Southern expression, was unsound on this question. There was also a report that Prentiss was opposed to Fillmore and preferred General Butler. That this was not the case Mr. Prentiss showed very conclusively in his public speeches, and quite as emphatically in a private letter :

"I consider Fillmore the very best selection that could have been made. He is a true, honest, conservative Whig, and as good a friend of the South as any man north of Mason and Dixon's line. I have on all occasions taken pains to vindicate him from the rabid attacks of the Loco-focos, and to bear witness, as one of his colleagues in Congress, to his talents and patriotism. To-morrow night I am to address the 'Fillmore Rangers,' a body composed of the leading and most influential young men of this city" (New Orleans). "They have assumed the name to show that they are as zealous for Fillmore as for Taylor."

Not one of these masterly efforts is preserved.

J. B. Thorpe, the most exquisite pen-painter of the men and things of his time, tells of the last political effort, and he thought it the greatest of Prentiss's speeches. He says,—

"Towards the close of the campaign I found him in the interior of the State, endeavoring to recruit his declining health. He had been obliged to avoid all public speaking, and had gone far into the country to get away from excitement. But there was a '*gathering*' near his temporary home, and he consented to be present. It was late in the evening when he ascended 'the stand,' which was supported by the trunks of two magnificent forest-trees, through which the setting sun poured with picturesque effect. The ravages of ill health were apparent on his face, and his high, massive forehead was paler and more transparent than usual. His audience, composed of some three or four hundred persons, was composed in a large degree of his old and early friends. He seemed to feel deeply, and as there was nothing to oppose he assumed the style of the mild and beautiful. He casually alluded to the days of his early coming among his Southern friends, to the hours of pleasure he had passed, and to the hopes of the future. In a few moments the bustle and confusion natural to a fatiguing day of political wrangling ceased, one straggler after another suspended his noisy demonstration and gathered near the speaker. Soon a mass of silent but heart-heaving humanity was crowded compactly before him. Had Prentiss on that occasion held the very heart-strings of his auditors in his hand he could not have had them more in his power. For an hour he continued, rising from one important theme to another, until the breath was fairly suspended in the excitement. An uninterested spectator would have supposed that he had used sorcery in thus transfixing his auditors. While all others forgot, he noticed that the day was drawing to a close.

He turned and looked towards the setting sun and apostrophized its fading glory, and then, in his most touching voice and manner, concluded as follows:

“‘ Friends, that glorious orb reminds me that the day is spent and I, too, must close. Ere we part let me hope that it may be our good fortune to end our days in the same splendor, and that when the evening of life comes, we may sink to rest with the clouds that close in our departure gold-tipped with the effulgence of a well-spent life.’ ”

There is something inexpressibly sad in this beautiful description. The closing words of the speech were a sort of a premonition of the end that was soon to come. The orator and the sketcher have both passed away, but the one is linked to fame by the beauty with which he has portrayed the other.

Prentiss, who had literally worn himself out for the sake of the public, was rewarded by a triumph. Taylor was elected by popular plurality, 1,362,242; Cass received popular vote, 1,223,795; Van Buren, Free-Soil, received 291,378. In the Electoral College Taylor received 163; Cass, 127.

Prentiss frankly admitted that at one time the position was critical, and all depended upon Pennsylvania. It will be remembered that at the crisis of the election in 1844 Pennsylvania turned the scale. I recollect distinctly how Mr. Prentiss then tried to parry the dampening effect of the news. He said it was owing to the unbounded popularity of Governor Shunk, and that when the Presidential election came Pennsylvania would tell another tale; but this she did not do, and it became a trite saying in old times, “As goes Pennsylvania so goes the Presidential election.”

CHAPTER XXII.

DURING the winter of 1848-49 the cholera broke out in the city of New Orleans; great was the terror of the people: as many as fifteen thousand fled. Prentiss had already passed through such epidemics elsewhere and felt no fear, but was anxious, nevertheless, that his family should leave; they, however, resolved to abide and breast the storm with him. He was worn down by his extraordinary intellectual exertions at the bar and on the hustings, but his situation was such that he could not possibly leave his business, and therefore his family would not leave either. In his wearied condition of mind and body the disease attacked him, and he came very near dying; but, as he expresses it, "by the blessings of a kind Providence," he entirely recovered. Such was the buoyancy of his spirit that he thought the attack would be of service to him, for he says that his appetite, which, for two or three years before, had dwindled into almost nothing, had revived, and as soon as he could pick up strength he would feel like a new man. If he had then been in a situation to take rest he might have prolonged his valuable life, but, alas! inexorable necessity hurried him to his doom.

When he had sufficiently recovered he concluded that he and his family would go North; they preceded him to "Longwood," and, after arranging his business, he followed. About the middle of July he embarked with all his family, except little "Seargy," for what was to be his last pilgrimage to his native home. The joy of the reunion is beautifully and pathetically told in the "Memoirs." His kindred marked with painful anxiety the sad change in his appearance: "A score of years seemed of a sudden to have passed over his head,—his hair had become thick set with gray, while every feature of the noble countenance was stamped with deep, unwonted lines of care, sorrow, and disease." Such, however, was the rejuvenating effect of

that bracing air and the psychological influence of meeting with his mother and sister and brothers, that he began at once to recuperate. He hurried down to Boston to procure presents for the children; he returned and sat down in their midst in order to enjoy their delight as he distributed them.

Once more, with his angling-rod, he went to the "Merrimac" for the blue-fish, which were said to have returned for the first time in *seventy years*. The wind was against him: he caught none; had he done so, he would doubtless have compared them to Rip Van Winkle,—they would have been *royal fish* in *republican* waters.

He spent the summer in pleasant excursions through and around the neighborhood. Webster was in Boston, Clay was at Newport. He met each, and held such communion, though brief, as only great minds can hold with each other. The voices of the three master-orators of the age were toned into the melody of friendly private conversation. It is a pity that the last interview between Prentiss and these great men was not preserved; all that is known is that they met and parted never to meet again.

On the 20th of September he bade adieu to his friends, and reached home the last day of that month. He regrets, in a letter to his native home, that he could not have stayed longer, and had to forego the visit to New Bedford. It went hard with him to give it up; it *especially* grieved him that he had to leave without *seeing his dear mother again*.

The key to his rapid decline in health from this forward is contained in one brief sentence in his letter, "My business affairs required my attention." He had to plunge into the harassing and perplexing cares of others. We find him appearing in a great will case, taking a month's absence from home, away up in the northern tier of the Louisiana parishes,—"*Morehouse*." As he expresses it, "the weather was very inclement, the roads were horrible; some thirty or forty miles through the worst swamp he ever saw in his life." He suffered greatly from the cold and wet, and consequently had a slight return of his old malady.

His last public speech was at the anniversary-day of the New

England forefathers. Fresh from the *bracing* clime of the North with all its hallowed associations, and then breathing the air of the genial clime of the South with its glorious future, the toast he gave at the dinner was an expression of his blended emotions,—“May the time never come when a citizen of New Orleans shall find himself a stranger in Boston, or a citizen of Boston be a foreigner in New Orleans.” On this sublime text he poured forth a solemn reproof, warning, and exhortation. It will be remembered that just at that era mighty questions were looming up in regard to the adjustment of the slavery question in the new Territories. He pictured the incalculable woes that would follow disunion, but if it came, he could only cast his lot with the land of his adoption. Happily for the men of that day, the storm which threatened then was dispersed by the wise counsels of the statesmen with whom Prentiss always acted.

Another Christmas-day dawned, and true to his lifelong habit, he wrote to his mother; the letter is so playful that I transcribe it :

“I wish you, my dearest mother, a happy and a merry Christmas. Would you were here to enjoy it with Mary, the children, and myself! It is one of the loveliest days I ever saw. Just cool enough to be comfortable, and the sun as bright as if it had never been covered by a cloud. Indeed, we have had several days of the most beautiful weather you can imagine. Mary has been up to her elbows for the last week making bored turkeys, mince-pies, and other goodies, while the children, under pretence of helping mamma, manage to get their fingers wherever there are any plums or spices. The dear little things are in excellent health and enjoy themselves beyond measure. Una is the gayest of them all; she is singing and hopping about all day like a bird. Oh, how delighted we should all be if you were away from cold Newburyport and enjoying this sunny day with us! My health is gradually but firmly improving. . . . God bless you, my dear mother!”

Mr. Prentiss had the good fortune to attract the literary men of his age. Among his warmest friends was the Hon. Joseph Cobb, of Columbus, Mississippi. Colonel Cobb's pen-portrait of the man at their last interview is very touching. It was an intercommunion of congenial souls, and took place on the packet from Mobile to New Orleans :

“There,” says Cobb, “I found him, but sadly altered. I saw at a glance

that the death angel had marked him for early prey. The hollow, sunken eye, and the peaked nose, and the sallow cheek indicated too plainly that disease had baffled skill and science, and that the sands of life were fast running out. I was too much touched not to show my feelings. He fixed his eye steadily on me.

"'I see,' said he, 'that my appearance shocks you. Don't you think I am nearly ready for the shroud and the coffin?'

"I confess I was surprised to see him so calm and resigned, and I candidly told him that his looks confirmed my fears from what I had heard, and I thought it was time to set his house in order for the last earthly trial.

"'I think my chances for recovery quite hopeless,' said he, 'and my mind is made up to await the event.'

"We then moved to the upper deck of the boat. While there, conversing, a little, sickly-looking fruit-girl came up to us, offering to sell her apples and oranges. The offer was so common that I turned off and continued the conversation without paying the least attention to the little cateress. Prentiss's features, however, lighted up into a most benignant smile and expression, and although he could not venture to eat her fruit, he bought the worth of several dimes, only to give them to the passing servants of the boat. His heart could never resist an appeal, and this little incident seems to have been the offspring of some suddenly aroused sympathy, induced, most probably, by the wan appearance and sickly complexion of the poor young girl.

"Mr. Prentiss here referring to a work of mine" (Cobb's) "which he had in his surtout, proceeded to say, in a tone of striking sadness, 'I have always cherished a taste for literature, and I only regret the waste of so many bright hours of my life, which might have been devoted to a more close cultivation of that taste.'

"I replied, 'There are few literary men who would not willingly give up their hopes of fame for that which clusters around your name.'

"With a melancholy smile he answered, 'The world's applause has always astonished me. I am not conscious of ever having neglected the business of a client or constituent, still I have really been an idle man. I feel that I have not improved my time as I might and should have done.'

"This very humble estimation of his career was not shared by me," continues Mr. Cobb, "and I wondered that a man who had filled his country with his fame as an orator should entertain so lowly an opinion of his own merits."

After this brief interview, the two friends separated never to meet again in this life. Chained by inexorable circumstances to his work, Prentiss sought to recuperate his health by a change of residence to Pass Christian, where he could inhale the sea-

breeze. He took a beautiful cottage, and proposed spending his summer there. All this while he would occasionally be buoyed up by hopes of returning health, inasmuch as now and then there was a mitigation of the violence of his symptoms.

It was during this time that Calhoun died. Prentiss profoundly mourned his loss. Although he had disagreed with the distinguished South Carolinian in some of his cardinal doctrines, he nevertheless with courtesy admired his transcendent ability and his eminent purity of character. It will be remembered that the last speech of that Senator was read from his desk by his colleague, he being too weak to deliver it standing. We shall see how, ere very long, Prentiss had to pass through a like experience.

It was while he was struggling with disease that in the latter part of April he received one of the highest compliments of his life,—a highly flattering invitation from the Story Law Association of the Harvard University to deliver the *first* annual address. The letter says, in substance, that the object had in view was grand. It was “to give the institution a national character, to promote its general welfare, to revive the pleasing memory of legal study, to elevate the standard of the legal profession, and to purify it from all sectional and party feeling. We are the disciples of the great legal fathers, and would assist in administering the law as we learn it from them, giving to every citizen the rights belonging to him under the Constitution. You will meet a large number of young men from every State in the Union, and members of the legal profession from Massachusetts, and it will be the greatest gratification to them to hear the voice of him so well known in the capital, and whose remarks on the death of Mr. Adams have not yet faded from their ears.”

Sadly and mournfully Prentiss had to decline this honor. Webster was subsequently chosen, but could not act, and at last it fell to the lot of Rufus Choate, who proved himself equal to his fame; he, too, like Prentiss, and so many other men of transcendent genius, fell in the very noontide of his manhood and glory. Dickens somewhere describes consumption assuming, as though in mockery, the hue of health, so was it with Prentiss's malady,—chronic dysentery,—it wasted the body, but

seemed to purify the intellect of earthly dross, and so brightened the mind in the midst of decay.

At this very time he was engaged in the great case of *Pultney's Heirs v. City of Lafayette*. The heirs of Pultney filed their bill in chancery against the city of Lafayette and upwards of two hundred individuals; in brief, it alleged that Pultney had purchased from the widow Rousseau a tract of land about a mile and a half above the city of New Orleans in May, 1818, and that, to secure the payment of part of the purchase-money, he had mortgaged the same land to her for eighty thousand dollars, payable in five annual instalments of sixteen thousand dollars each; that Pultney died in October, 1819, leaving minor children; and that the defendants were in possession of the property, which complainants claimed a right to redeem. It grew into an immense complication; among other answers, some averred that Pultney at the time of his death was insolvent, and that the property in question had been subjected to the operations of the laws in Louisiana, and had been sold to its present possessors in 1837.

Of course the preparation and investigation of such a cause, involving millions' worth of property and covering such an extent of time, involved herculean labor. It is a curious coincidence that the date of the incipient transaction is 1818, the very year before Vick's will, which formed, as we have already told, the foundation of the celebrated Vicksburg case in Mississippi.

Prentiss represented the complainants as counsel, and for three weeks, in the midst of inclement weather, had to attend on the court during the trial. At length the hour for the argument arrived. The scene was novel and touching. The great advocate was then but a shadow of himself, too weak to stand, he was permitted by the court to speak from his seat (the first time perhaps in its history that such a permission was necessary). His voice attenuated, but still silvery. Hour by hour he plied argument upon argument, without a break in the chain from the beginning to the close. All the questions which could elucidate or fortify the cause of his clients, were brought forward and applied to the case. Says Judge McCaleb, alluding to it,—

"One of the most important arguments made by him before this tribunal was delivered from his seat, his declining health rendering it impossible for him to stand in the presence of the court, and yet I may with confidence appeal to his able and generous antagonist on that occasion to bear testimony to the systematic arrangement and masterly ability with which every argument and all the learning that could tend to the elucidation of the important questions involved were presented to the court."

As was to be expected, as soon as this intellectual excitement was over, Prentiss sank, prostrated, and for weeks the frail bark was surging near to the shores of eternity. From this attack he rallied somewhat, physically, but more in *buoyancy of spirit*. The glimpse of his feelings at this time is had from the last letter he ever penned to his mother, under date of May 9, 1850:

"MY DEAREST MOTHER,—I have been prostrated for three weeks by a severe attack of my old disease. For ten days I have been lying on my back, unable to sit up or scarcely to move. By the blessing of a kind Providence" (the reader will note how often this phrase is used in speaking of his sickness) "I am now rapidly recovering, and in a few days shall, if I do not get a set-back, be entirely well. I attribute my attack to my over-exertion in court and exposure to the weather. I had been more or less affected by the disease all winter, but it was not so violent as to prevent my attention to business. Some very important cases, however, compelled me, during inclement weather, to attend court many days in succession, which doubtless aggravated the malady and brought on the bad spell from which I am just recovering. I think it will do me good. I have not felt better for a year, and all I want now is a little more strength. Day before yesterday was the first day I have been able to do anything. I have begged Mary to write you often, as I could not myself. So I suppose she has advised you of the progress of my attack. I was delighted to learn of your safe arrival at Newark, and trust you begin at this time to feel at home and to like the change. I think your move a most fortunate one, and cannot but believe you will be pleased with it. . . .

"Mary will spend the summer at 'Longwood,' and in that event I shall probably, in July, make a rapid trip to Virginia Springs, and try the waters for a short time."

After loving messages to his family, he concludes:

"As soon as I get a little stronger I will write again. In the mean time I remain as ever your most devoted and affectionate son."

This is followed by the last letter he ever wrote to his brother, of date June 2:

"I am still, *thanks to a kind Providence*, improving rapidly in health, though more slowly than I could wish in strength. It is certainly a very strange disease. One feels perfectly well, when the slightest imprudence throws everything aback, and one has to get well again from the beginning. I am dieting with great care. I eat nothing but tea and dry toast, with occasionally a little bit of lamb or mutton. Pastry, fruit, especially *apples*, are *mala prohibita*." (The classical scholar will appreciate the delicacy of the pun.)

He says he is free from disease; he is staying at the St. Charles. Mary and the children have gone to "Longwood." He has broken up housekeeping and will board to curtail expenses, in the hope of paying off his debts:

"What a jubilee I would have if I could once again stand forth and say, I owe no man a cent! Well, I am going to strive for it. The rapid growth of our four beautiful children warns me that I must make some provision for their education."

Here follow his plans for the future and his hopes of enjoyment, at an early day, among "the fruits, flowers, solitude, and salubrity of 'Longwood.'"

The postscript closes with love to kindred, and directs his brother to forward the letter to his mother, inasmuch as he is too weak to write more on that day, but will write again in a few days. These two last loving letters speak volumes, and show that the constancy of his affection remained undiminished. The same devotion which had shed its light in his youth and in the noon of his manhood, still glowed even now, just as the disk of life's setting sun was touching the horizon.

It was after these letters were written that he still continued to *work, work, work*, in spite of the warnings of his friends. His heart was with his wife and children. He was saddened, too, by the premature death of young Collins, a brilliant lawyer of Providence, Louisiana, to whose memory he paid a glowing tribute. Taking advantage of his life-long friend, Mr. Hammet's, going past Natchez, he sent up, under his charge, one of his old servants, who bore to his wife a letter from him.

CHAPTER XXIII.

AT this epoch some of the Cubans, from a real or fancied oppression of the home government of Spain, had caught the spirit of liberty from the example of the United States, and had raised the standard of Freedom. A colonial people, struggling to throw off the yoke of the mother-country, has always enlisted the sympathy of the American people, because of their ancestors once passing through the same trying ordeal. The illustrious example of Lafayette gave a sort of sanction to the expression—not only in words, but in acts—of that kind of sympathy. As there was a danger lest the exercise of this proclivity should involve our country in a war, Congress, very wisely, passed laws known as “The Neutrality Acts.” The sixth section of the act forbade the setting on foot an expedition against a friendly power, declared every person so offending guilty of a high misdemeanor, and subjected such, on conviction, to the penalty of a fine not exceeding three thousand dollars and an imprisonment of not more than three years.

Among the chiefs of the Cuban revolt was Narcisso Lopez, a native of Venezuela. He visited the United States, obtained help, made a descent upon the island at Cardenas, was driven back, and took refuge at Key West. Nothing daunted, he again canvassed the United States, and enlisted in favor of the cause some of the most distinguished men of the South.

In the mean time the government became uneasy, and President Fillmore issued his proclamation of neutrality. The Spanish consul at New Orleans invoked the aid of the United States district attorney, and made an affidavit accusing Lopez of violating the sixth section of the Neutrality Act. Upon this affidavit Lopez was arrested and brought before Judge McCaleb

on a preliminary examination. It was on this trial that Prentiss, as counsel of Lopez, made his *last* effort in a judicial tribunal. Two days previous he had been prostrated by a fainting spell, from which he recovered only through extraordinary attention.

When the day for the trial arrived, Mr. Prentiss was driven around to the court-room, which was densely crowded, not only on account of the distinguished prisoner and the novelty and public interest of the case, but also because of the expected eloquence of the counsel. Besides the eager and expectant crowd there were there three watchers *par excellence*, who looked upon the scene with intense and painful interest. These were Mr. Prentiss's faithful body-servant, Richard, Judge Alexander Walker, of an opposing political faith, and his old political opponent, Colonel J. F. H. Claiborne. Only a few days since, Colonel Claiborne told me that it was the most powerful and beautiful speech he ever listened to. In the "Memoirs" we read that Richard said, "I stood where I could see him all the time. He didn't look weak while speaking. The moment he began to *speak he looked just like himself*."

Judge Walker thus describes the speech and the man :

"His brilliant oratory and sparkling wit, like the last glimmering of a bright light, shone in our court with their wonted effect and electrified a delighted assemblage. The *pleasure* afforded by his extraordinary versatility was *tinged* by the consciousness which pervaded the whole assemblage that it would be *his last* effort in the exercise of his noble oratory. It was indeed a melancholy sight to see so powerful an *intellect* struggling with the decay of a body worn to the last stages of mortality. We felt that it would be the last opportunity we should have of gathering up for preservation and recollection the brilliant thoughts that he was accustomed to fling from him as profusely as Orient pearls with which Aurora 'gemmed the earth.' We therefore noted down all that fell from him and recorded in this journal (the *Daily Delta*) the only report of the last display of his remarkable oratory. We recur to that report with melancholy feelings, but still with the pleasing associations which his eloquence and wit never failed to excite."

I have, fortunately, procured from the *Daily Delta* of that date a copy of the report of that speech, which I herewith give entire :

"Extract from Proceedings in the General Narcisso Lopez Case before Judge McCaleb, on the 7th of June, 1850, reported in the Daily Delta of June 8, 1850.

"S. S. Prentiss rose to reply for the accused. [We were pained to observe the debilitated and weakened condition of this estimable gentleman and unequalled orator, who for some time past has been laboring under a severe and prostrating disease. His remarkable intellect, however, still retains its native vigor and brilliancy despite great physical weakness. That he may soon be restored to health and strength must be the fervent prayer of all admirers of a noble mind and gallant heart.]

"Mr. Prentiss stated that the point which had just been raised was one of great importance, and it was very proper that it should be carefully examined and deliberately determined. Decisions upon these questions become precedents, the reversal of which, as well as their reiteration, are highly injurious to the administration of justice. The question here is, upon what grounds you may arrest and detain a man in the custody of the officers of the court? Can you do this upon your simple dictum, upon the mere suggestion of some other person,—from your mere caprice and suspicion? Can you arrest me now for murder, because you choose to do so? because I may look like a murderer, or somebody else may have whispered into your ears that I had committed a murder? Is this the law of the United States? Have judges and district attorneys this enormous power of issuing warrants upon any grounds that may please them for the arrest and detention of prisoners? The telegraphic wires bear with the lightning's swiftness the orders of the President to the district attorney. The electric agent has done its duty, finished its mission, when its message is reduced to writing; but here the district attorney takes up the matter, seizes the thunders of Jove, and launches them with gigantic power against the object of the Executive wrath, through this new and extraordinary process of dragging a man up for trial on a simple dictum. Because a political excitement has been raised throughout the country, and some elderly females are frightened from their propriety, are we to disregard the established rules and principles of law? We have a great many laws in these United States. Our statutes have grown quite respectable in number and ponderous in weight. These laws create numerous crimes, misdemeanors, and offences. Now, suppose the judge of this court undertakes to enforce these innumerable statutes by issuing arrests against any man he suspects of having violated any of these laws? The district attorney, too, in this view of his legal powers, may go forth into the streets and seize the first man he meets as a thief, or he may take up another man who has murder in his face,—in the true spirit of Dogberry, he may 'comprehend' any man he meets as 'no true man,' and be justified in his construction of the law by the judgment of neighbor Verges! This is the consequence of the doctrine maintained by the district attorney. Sir, it is not the law. The affidavit must swear to some facts or circum-

stances of the alleged offence; his belief here will not do. If persons may be arrested on such affidavits as this, alleging no facts or circumstances of the offence charged, on the simple belief of a party that an offence has been committed somewhere; if this were the law, I would rather live on that poor, miserable, afflicted island of Cuba, which certain gallant young men of our country have lately visited for the purpose of aiding the oppressed people to achieve their liberties, than reside in a country where the law is carried out in the manner and form of this proceeding. Your Honor did not issue this warrant on your own knowledge or belief. It rests upon the belief of another party.

"And now, because the court is open, and we are ready for the investigation, and it is convenient to examine into this matter, we must proceed and try somebody, in some way, and for some offence. Why not, with equal propriety, take up somebody for some other offence? There are men here in this court whom you may believe guilty of some one of the innumerable statutes in the law-books; men who have, perhaps, violated your revenue laws,—imported tobacco without paying duties, or committed some offence of that nature. Suppose I say I believe my friend before me has been guilty of murder, will that justify his arrest, trial, and commitment? No, sir; I must allege and swear positively that a murder has been committed. My belief here cannot be sufficient. It seems to be the opinion of many district attorneys that all that is necessary in an affidavit is to spread the law on it, just as a boy spreads his butter on his bread; and very often it happens, in both cases, that there is too much butter for the bread. In this view of the law a man may, under a general averment that another is desperately wicked, have him arrested and tried for theft, burglary, murder, piracy, or rape.

"[Mr. Prentiss here referred to the citation of the district attorney, from Chitty, and showed that the authority required that the warrant must rest upon 'some evidence.']

"What is the 'evidence' set forth in this affidavit? It is the belief of the Spanish consul. Is that 'some evidence'? Peradventure, the Spanish consul is ready and willing to swear that he believes Cuba is a perfect Utopia of political felicity, that it is the best-governed community in the world, and its rulers are individuals of unequalled purity and wisdom. Is that belief evidence of the facts stated which should carry conviction to the minds of the court and the district attorney? When was such a doctrine ever maintained before among a civilized or barbarian people? Sir, an affidavit resting upon a mere belief is utterly worthless, it is as hollow as a nut that has been weevilled for a thousand years, as hollow as a biscuit that has made the longest voyage since old Father Noah commenced his cruise on the great deep.

"We desire to know the facts and circumstances of his belief. What does he mean by it? He speaks of 'setting an expedition on foot.' What does he mean by that? His setting on foot may be different from your

Honor's idea of setting on foot. It may be standing on his head or some other extremity. He speaks, too, of supplying the 'means' of an expedition. What does he mean by the 'means'? He may consider four bits 'means,' and your Honor may differ and think a dollar 'means,' in the sense of the law. We have not yet seen anything in the life or character of the Spanish consul which should lead us to attach such solemnity to his words, his belief, that they may be received without a why or wherefore, a privilege not even extended to the oracle of Dodona. Is your Honor, at the bid of this Spanish consul, to walk Spanish, with the district attorney as your aid?

"Judge McCaleb: No reflections, I trust, are intended by the counsel on the court by this course of argument. I desire to call the attention of the counsel to the points in discussion, which I wish to hear discussed with as little irrelevancy as possible.

"Mr. Prentiss: I meant no disrespect to the court or the district attorney. I was illustrating, in my own humble style, the tendency of this doctrine of arresting parties upon the simple belief of an individual. I maintain that if an individual can be arrested upon the Spanish consul's belief, it is more than was ever claimed for the belief of an American citizen. Let the Spanish consul state, as any man of sense would state, the grounds of his belief, the facts and circumstances of this alleged misdemeanor. [Mr. Prentiss here read Chitty, to show what are the essential requisites of an affidavit.]

"It should be borne in mind that it is no small matter to arrest a man charged with a high misdemeanor. The clutch of the law is terrible, its touch is contaminating; it inflicts a stain, an ignominy, a sense of debasement upon the most innocent and upright. No man can stand before its awful majesty, in the attitude of one accused, without feeling his soul darkened, his heart oppressed, and his purity soiled. The powerful machinery of the law should not be put in motion on slight grounds and without the solemn sanctions which surround and accompany its administration. It is our duty not only to see that the course of justice runs smooth and strong, but that it flows through the channels carved by the fathers of the Constitution and guarded by locks and bars, and that it is not drawn off in any particular direction to irrigate any man's plantation who may, by turning the cock of his belief, thus divert the natural flow of this great and fructifying stream. Shall the great powers of this machinery be brought into action upon the simple belief of an individual? This arrest cannot stand.

"This proceeding has no foundation. It must be dismissed. It will not dispose of the case. It can be proceeded with in a more regular and proper manner. If this prosecution is to be seriously carried out; if the President of the United States or Secretary of State have anything hard on their consciences in relation to this Cuba business, and are so anxious to maintain their friendly relations with her Catholic Majesty; if they

are determined to put into effect this antiquated statute, which has lain on the shelf so long a mere toy for children to laugh at, and not to be seriously used; if, as we grow older in the natural course of affairs, we become more moral, law-abiding, and neutrality-loving, and the strongest and most noble sympathies of our nature are to be subdued to the cold, narrow, selfish demands of your so-called neutrality; if what was considered quite a pardonable departure from this neutrality in the cases of Mexico and of Texas, now one of our most beautiful though the youngest of these sister States, snatched from Mexican misrule through the sympathy and aid of citizens of these United States; if similar conduct is now to be denounced as a lawless misdemeanor, a high crime, a piracy, let us proceed at least regularly and lawfully in the matter. If the rings and bolts, the armor, the pincers, and screws are to be taken down from the walls, and under the direction of a grand inquisitor to be applied to these offenders, let it be done with a pure conscience, under the compulsions of the law, and in conformity to its strictest requisitions. Let the Spanish consul speak out with the grandiloquence of his nation, and not warble in the cuckoo-notes of this affidavit, stating his belief, when we want, and the law wants, the facts and circumstances of the alleged offence.

"Let me chop a little logic with the district attorney. It won't be large, but mixed with a few herbs, such as they put into their creole gumbos or Spanish *olla-podrida*. I may make a tolerable dish of it. It is charged that an expedition has been fitted out in the United States, and has sailed from the United States to proceed to Cuba, to engage in hostilities against the government of that island. Well, if such a fact has taken place, are there no circumstances to indicate or prove it to which the Spanish consul might take his oath? Now, if this Spanish consul is at all like the rest of his countrymen, he is not slow at talking. Their proclamations show that they are hard to beat in piling up the agony in the way of strong phrases, big words, and powerful assertions. Why, then, is this representative of Spanish grandeur so modest, silent, and backward? Why does he not come up like a lusty fellow and swear to some facts? Show us something to sustain your charge, though it be only as big as a pin's head,—though it be only enough to scare a mouse, not a rat. Could he not swear that he saw several mysterious-looking men, in a coffee-house, with moustaches, smoking Spanish cigars and looking daggers? Here would be a fact and circumstance tending to justify and confirm his belief. No, he has not even this small nail to hang his belief upon. It floats unsupported in mid-air, with not even a clothes-line to hold it up. If you could get a fact only as big as a man's hand, you might puff and blow it up into a big and black cloud full of muttering thunder and forked lightning.

"But we have no such fact; how can we, then, judge of a belief founded upon circumstances not stated or alleged? How can you deprive a man of his liberty, drag him from his bed, and subject him to the contamina-

tion of an arrest and the gaze of the multitude, upon a belief founded upon facts not stated? When Nebuchadnezzar asked Daniel to interpret his dream, Daniel said unto him, 'Tell me first thy dream, and I will truly interpret it.' So we say to the Spanish consul, Tell us the circumstances of your belief, and we will interpret it for you.

"As to this point of the sufficiency of affidavits to justify warrants, the law is clearly laid down in these words: 'Magistrates must not grant any warrant groundlessly or maliciously, without such probable cause as might induce some discreet and impartial person to believe, not that an offence had been committed only, but that the party charged is guilty of the offence.' If a man swears to nothing, to no fact or circumstance, his oath, like that of lovers, passes away in the idle wind and is heard of no more. The Spanish consul's belief may be a matter of little importance to the rest of the world. He may swear to his belief in the New Jerusalem, but does that prove the existence of a New Jerusalem? If a man's belief is to prove a fact, we shall then have a great variety of curious facts afloat in the world. This would be a dangerous doctrine in these days of credulity, when strange rumors are abroad in the world and the wildest fictions obtain believers. Our brethren at the North believe that we are cut-throats and barbarians, but that does not prove that we are those disreputable characters, so we return the compliment by believing that they are the bigoted and fanatical followers of a true God. But these beliefs prove nothing. And why should there be no facts and circumstances set forth in this case? Was this alleged expedition so private and secret an affair that no proof of it can be found? When our Gulf is dotted with ships of our squadron, and the public ear is on the *qui vive* to catch the reverberations of cannon along our shores, when the telegraphic wires are occupied in the transmission of Executive orders relative to this Cuban affair, and a great excitement pervades the whole country, is it possible that no fact or circumstance can be found to put into an affidavit against the supposed leader of the cause of all this disturbance?

"[Mr. Prentiss then read an authority from Burr's trial, and proceeded to argue at length that the fitting out of an expedition being a physical fact, admitted of the most positive averments and direct evidence.]

"In conclusion, Mr. Prentiss invoked for General Lopez, a stranger and sojourner in our country, the same justice, the same rigid rules which are extended to other persons charged with offences of the courts, and if officers of the law deviated a hair's breadth from the uniform practice and principles of law, they would find no justification in the public sentiment of the country. A thousand Argus eyes are watching these proceedings with intense interest. Let the rules of the law, therefore, which guard the liberty of men, be strictly observed, so that the people may believe that justice has been faithfully done to the foreigner who places himself under our jurisdiction. Do not stretch the law, do not leap over the barriers imposed by legal wisdom against judicial tyranny, in order to clutch this

party and offer him up as a sacrifice to this new-born virtue of neutrality. Prepare your affidavit in proper form, let it allege the facts and circumstances of the offence, so that we may know what we have to answer for. When parties profess to be so intimate with the affair, they surely can hunt up some materials for such an affidavit as the law requires. Until this is done I am satisfied this court cannot legally entertain this charge.

"Mr. Prentiss here took his seat, much exhausted by his effort, and after a while retired from the court-room."

Such was the last effort of Prentiss's master-mind. The theme was worthy of the powers of the advocate. He had, the year before, touched at Cuba, and been enchanted by its beauty, and now was the champion of its liberty, in striving to rescue Lopez, its would-be liberator. The forum before which he stood was the tribunal of the nation, that nation itself the child of revolution. In the assembly all classes were represented, and here, as often before, the nation was his auditor. Buoyed up by the exalted theme and its clustering associations, his mind rose superior to his frail body and carried it unfalteringly to the end. He spoke like one inspired, and it was a fitting close to his career as an orator. As the poet chants of the dying swan :

"Death darkens his eye and unplumes his wings,
Yet his sweetest song is the *last* he sings."

The advocate, however, was not successful. Lopez was bound over to appear at the Circuit Court. He, with sixteen, embracing, among others, J. S. Sigur, General Donation Augustin, C. P. Smith, Jr., John Henderson, John A. Quitman, and J. Sullivan, was indicted by the grand jury for violation of the neutrality laws. After three mistrials the prosecution was abandoned and the cases dismissed.

The tragic fate of Lopez is well known. In 1852 he organized a force, landed at Bahia Hondo, and, like Tarik when he landed at Gibraltar, sent back the boats, but was not met with an uprising of the people. He fought, was overwhelmed by numbers, and cut to pieces. Some of his band were captured, and, amidst the execrations of the populace, were shot. One was ordered to kneel, but replied he never knelt to any but his God. Another was ordered to turn his back, but replied that he would face the foe. Lopez himself was chased from place

to place, and was at last betrayed, captured, and garroted on the 12th of September, 1852. His last words were "*Adios, carra Cuba!*"

From this digression let us return to the narrative of the closing scene of the trial before Judge McCaleb. Scarcely had Prentiss finished ere he fainted. After he had sufficiently recovered he was borne to the St. Charles Hotel, and there again fainted. That night he obtained no sleep. On Sunday he was attacked with a violent recurrence of his malady, and almost passed into the collapse state of cholera. On Monday, after having crawled down-stairs, he determined to go to his office, but again fainted, and was carried back to his room, where he remained all that day. On that night he slept well, but on Tuesday morning was exceedingly weak, the paroxysms of fainting, in the mean time, growing more severe. During the intervals he still continued cheerful, but on this day at last consented to abandon business and hasten to "Longwood" to rejoin his family. He himself began to fear that he would never again see them. His anxiety to get off now became intense: he counted the moments as they passed. About five o'clock on Tuesday afternoon he was borne to the steamer by his friends, who followed in such a way as not to excite alarm. He was lifted from the mattress upon which he had been conveyed to the boat and carried aboard the same seated in a chair. As they were bearing him aloft his eye caught that of his friend, Hon. Garrett Duncan. Instantly his face lit up with a smile, and with a graceful inclination of the head he asked, "Any motions to make, gentlemen?"

Attended by his faithful friends, Colonel Peter B. Starke, Mr. Hammett, and Dr. Cross, he reached Natchez on the 19th of June. By way of precaution, to prepare Mr. Prentiss's family for his appearance, and thereby save them from the shock that it otherwise would have occasioned them, General Starke rode in advance to "Longwood" and announced his coming; he had scarcely gotten through with the sentence, "Mr. Prentiss will be here soon; he has been very ill," ere the carriage drove up. Mr. Prentiss was lifted out and removed to his room, where the birds, the flowers, and the pure air seemed

to revive him. Roses were put by his bedside, and he expatiated upon their beauty and his delight. But it *was too late*. Bingaman tersely remarked, "Nothing is left of him but his grand two-story head." Day by day the fatal disease progressed. Sometimes he became delirious, accompanied by painful visions; he talked about his suits, and raising money for his children, but pleasant visions also hovered around him. Says the faithful *watcher* by his side, writing to his kindred,—

"He has called for you all by name again and again during his illness, particularly for his mother. 'Dear mother, do you love me?' and 'Dear, dear mother,' has been constantly on his lips. Her early instructions and her prayers were, no doubt, in his mind. He has also repeatedly called upon God. One day, when he was very low and much distressed at the idea of death, I urged him to go to the Saviour, and repeated to him many sentences from the Bible, but he said God would never forgive him, that I did not know how wicked he had been. I told him only to repent and believe in the Lord Jesus Christ, and 'though his *sins were as scarlet they should be white as snow.*' This seemed to quiet his fear. I begged him to pray, and asked him if he didn't remember how his mother used to teach him. He said, 'Oh, yes,' and desired me to pray with him, and I then repeated to him the Lord's Prayer. Several times he has said 'Amen!' 'Amen!' as if he were praying. Yesterday I heard him saying as if to himself, 'O God the Son,' recalling, I suppose, the petition in the Litany. We are all now watching, hoping, praying, and trembling for him to awake. God grant that all may be right with him!"

Thus, at the closing hours, as his devoted wife sat beside him, memory hovered around his couch and whispered to him of the past. The images of his mother, sisters, and brothers were there. He remembered the prayer his mother taught his infant lips to lisp,—a prayer proof itself of its divine origin, for never was there in so small a compass compressed so much matter for comfort and consolation; in its brief words are embraced filial reverence, holy aspirations, trust in Providence, mutual forgiveness, guidance in temptation, deliverance from evil, and an acknowledgment of the omnipotence of God. There came, also, to his memory portions of the sublime Litany; "O God the Son," was all that was heard by mortal ears, but the rest may have been caught up by the hovering angel and wafted above,—"Redeemer of the world, have mercy upon us miserable sinners!"

On the last day of June, after giving his wife a kiss and a smile, he begged her to sit at the foot of his bed that he might see her the moment he awoke. "Mary, shall we meet in heaven?" were his last words. He sank into a quiet slumber from which he was destined never to wake. At seven o'clock on the evening of the 1st of July "his spirit returned to the God who gave it." "David Williams, Colonel Bingaman, General Houston, Mr. Evans, Mr. Shields, Drs. Smith and Metcalfe, and the Seargent family were with him to the last."

On the 2d of July the funeral cortege started from "Longwood," led by the Rt. Rev. Wm. M. Green, Bishop of the Protestant Episcopal Church of Mississippi, who performed the last sad office of the burial of the dead. In that procession, besides a number of other friends, were the members of the Mississippi bar, then in attendance upon the Chancery Court at Natchez, John T. McMurren, R. M. Gaines, H. S. Eustis, J. S. B. Thatcher, Chancellor J. M. Smiley, George H. Gordon (of Woodville), John B. Coleman (of Port Gibson), and George S. Yerger (of Jackson), all of whom have passed away. Proceeding to the main road, the procession turned southward to the family graveyard of the Seargent family at "Gloucester." In that classic spot had been laid the remains of the first governor of the Territory of Mississippi, and also the members of his family. Within its hallowed precincts were now laid, with the solemn requiem "Earth to earth, ashes to ashes, dust to dust," all that was mortal of our beloved friend and tutor.

How many eyes were dimmed with tears at the premature termination of his brilliant career can never be told. We can only judge of the wide-spread sorrow that his death caused by the posthumous honors paid to his memory. Immediately upon hearing the sad news, the members of the bars of Natchez, New Orleans, Jackson, and Vicksburg met and passed heartfelt resolutions of condolence. Judge Alexander Walker and Colonel Claiborne, both politically opposed to him, bowed their heads and draped his memory with cypress. Judge Bullard passed the most exquisitely pathetic eulogium ever spoken, and Judge McCaleb echoed its tender strains. These mourning wreaths are all garnered in the "Memoirs" by his brother, and

form a fit coronal to the memorial obelisk he has reared to his brother's memory. Clay, Crittenden, and Webster each gave their tribute of affection, which, like *immortelles*, remain as fresh and beautiful to-day as when strewn upon his new-made grave. I will add to them but a few more. One from the pen of Giles M. Hillyer, the brilliant editor of the *Natchez Courier*, published July 5, 1850, reads as follows :

"SEARGENT S. PRENTISS.

"The proceedings of the bar of the Chancery Court, to be found in another column, afford some proof of the universal feeling of regret and sorrow at the loss of such a man as Prentiss. To eulogize his talents, to speak of his burning eloquence, that rolled so impetuously and fervently from his lips, to refer to the influence which he exercised, now as an advocate upon a jury, and now as an orator upon the assembled throng, is but to refer to a theme about which there can be no dispute, since there is even no difference of opinion. It is to the expression of sorrow that we meet with daily in our streets, which we find spread upon our court records, and which we will soon hear reverberated through the press from Louisiana to Maine, that we will have to look for a proper appreciation of the hold that Seargent S. Prentiss had upon the hearts of his countrymen.

"It was over ten years since that the writer first had the opportunity of listening to his voice, as it pealed out to a thronged assemblage the rich stores of his eloquence. For nearly three hours was that audience held, as it were, spell-bound. Arguments and thoughts which from others might have appeared commonplace, were by him arranged in attire dazzling and captivating. Every well of human feeling appeared to have been by him sounded to its depths. Every portion of animated nature had been ransacked for its gems, and with these treasures he decked his words, not by heaping them together in one gaudy, ornate mass, but with such taste, such knowledge of contrast, that the hearer lost, at the time, all idea of the amount of the richness of his imagery by being captivated with the beauty and judgment with which it was arrayed. What would probably have palled upon the ear coming from others, was rendered doubly beautiful arranged in the brilliant laboratory of his brain. For him the fountains bubbled up anew, the rivulets murmured, the rivers swelled, the ocean roared. All nature seemed his hand-maiden. From the fragrant flower to the mighty tree, from the meteor's glare to the lightning's flash and the sun's overpowering brightness, from the deep solitude of nature to the humming of man's abodes, nothing escaped his observation, nothing but what was made subservient to the calls of his eloquence.

'As some vast river of unfailing source,
Rapid, exhaustless, deep, his language flowed,

And opened new fountains in the human heart,
 Where Fancy halted, weary in her flight,
 In other men, his, fresh as morning, rose
 And soared untrodden heights, and seemed at home
 Where angels bashful looked.'

"To those, his associates at the bar and in the daily walks of life, his friends who knew him intimately and loved him well, must be left the sad but pleasing task of doing full justice to the memory of so gifted a companion. As an adopted son of Mississippi, he has left an enduring reputation upon her annals, one that she can point to with pride as long as the star that glitters to her name holds its place upon the banner of the country."

The following is from the "Biographical Sketch" of Mr. Prentiss, by Judge Morris, in his "State Cases of Mississippi," and is inserted by his permission :

"From the hour of his *début* his fame as an orator, as a logician, and as a counsellor of profound learning spread far and wide, not only throughout the State but all over the Union. The memorable epoch of speculation, of inflated credit, of broken banks, and financial explosion was then near at hand in the new and exceedingly wealthy State of Mississippi. In every great contest at the bar Mr. Prentiss was the central, and generally the controlling, intellect and the leading spirit. In the stormy period which followed he was on every theatre of action, and in every scene an actor without an equal, and the object of universal admiration and applause. His energies never wearied, his vigilance never slept, his bearing was without limit; his powers of invention never were at a loss; his memory retained with indelible fidelity all that he ever knew; his expedients for apparently hopeless cases never failed him; his liberality and generosity to friend and foe amazed every beholder; his courage never quailed; and his integrity or his honor was never blemished. In the extent of his civil and criminal practice, in his unexampled success, in the splendor of his pecuniary rewards, in his boundless influence over both the judgment and passions of men of either high or low positions, he was above all others, without an equal and without a competitor.

"His manner as an orator, even in his boyish efforts, was simple, unostentatious, artless, and sincere. He first drew to himself and to his cause the interest and sympathies of every heart, and then by the most skilful and overwhelming argument, comparison, illustration, and appeal captivated and led away, obedient to his will, the consciences and understandings of all who heard. His figures and metaphors were drawn from the grand and beautiful in nature. The mountains, the ocean, the thunder-riven crag, the rainbow, the stars, the flowers, the birds, or the glorious sunset became a thousand times more grand, or a thousand times more lovely, when called into service by his matchless eloquence."

We give one more tribute, and that fresh from the pen of Rev. C. K. Marshall, of Vicksburg:

"Prentiss is a vital theme. Genius cannot perish, and if nothing were written of him, his fame would hang over the coming generations like a gleaming aurora in the polar regions. It is amazing how real eloquence charms the human soul, and to be real one great element is absolutely essential, self-unconsciousness, and when Mr. Prentiss was fairly into his theme he seemed no more conscious of himself than is the gushing water of a flowing spring. His eyes seemed piercing a remote prospect, as if his mental heralds had gone out to clear the way for the coming chariot of fire. Forgetting himself, he possessed the wonderful gift of banishing time, as with a wizard's wand, from the thoughts of his fascinated hearers, and men in haste to meet pressing engagements, pausing to sample him and then leave, remained, forgetful of business and pleasure alike, and after taking the sample, remained to carry off the entire bale. His genius was not measured by the ordinary standard of a frontier criticism or the judgment of an enthusiastic population of an uninformed and miscellaneous adventurer. He was surrounded by a citizenship of the South of unexampled ability at the bar, on the bench, in the forum. In some things there were many his equals, but taken as a complete man, with his native forces, his creative imagination, his capacious memory, his coruscating, exhaustless fancy, his rare and fearful logic, his wit and sarcasm, his splendid diction, his charming voice, his glorious eye and rarely beautiful and radiant face, he had no peer. He must be *forgotten* before he can be *matched*."

These are but samples of the glowing estimation in which he was held by his contemporaries.

Mr. Prentiss left surviving him his widow, two sons, George and Seargent S., and two daughters. George, as before intimated, was a soldier in the Confederate army, and died during the war of disease. The daughters, under the pious care of the mother, have grown up "as the polished corners of the temple." Seargent, whose face bears a striking resemblance to that of his father, is practising law in New Orleans, and is rising to distinction. He is a noble Christian gentleman.

Of the four gentlemen who figured so conspicuously with Mr. Prentiss in the celebrated contested election case of Mississippi, three still survive. His whilom colleague, Hon. Thomas J. Word, is practising law in Palestine, Anderson County, Texas, and is still held in as high esteem as in his younger days. I have just received a letter from him, in which he says,—

"I am in fine health and still actively engaged in my profession, and although so advanced in age, I can do as much work in my profession as most of the young men."

After giving an account of the prosperity of his children, he continues,—

"We have a fine State, of great extent and well governed. Life, liberty, and security of property are well protected and industry is well rewarded. So you see I think Texas is a great State. Your letter carries me back to the 'flush times' in Mississippi. They were fine times,—money in abundance and everything flourishing. But hard times came and we were broken up.

"Well, I am glad you wrote to me, and hope you will keep it up. It makes me feel almost young again to get a letter carrying me back to old times."

The letter is written in much better handwriting than that of the copyist.

Judge Gohlson, who once wore the ermine, doffed it, and his now armless coat-sleeve is a badge of honor, attesting how gallantly he fought for his State in the "lost cause." He still lives at Aberdeen, crowned with honor. In his letter to me, just received, he says, "Mr. Prentiss and myself were warm and rather intimate friends from January, 1835, until his death." Colonel Claiborne, who has blended his name with the story of his State in his great work, "Mississippi as Province, Territory, and State," is now resting on his laurels in the quiet shades of "Dunbarton," where Prentiss taught school fifty-two years ago. Colonel Claiborne was the first choice of the "Oxonians" to write the life of his great rival, but his declining years and feeble health forbade it, and he *assigned* the work, *without recourse*, to me. It was owing entirely to his suggestion that the task was undertaken. If it be a success, to him be the credit given of having made a proper selection; if it be a failure, let me bear the blame.

During Prentiss's life a town on the Mississippi, in what was then Washington County, now Bolivar, was called for him, but its site has caved into the stream, and thus literally

"The mighty river
Rolls mingling with his *name* forever."

That his memory is still cherished in the State of Mississippi is proven by a recent act of her Legislature. As late as the 15th of April, 1870, a county called "Prentiss," in honor of his name, was carved out of Tishemingo County, which, it will be remembered, was one of the Chickasaw counties against whose representation, in 1837, he fought so persistently, thus showing that political asperities die with the age of their birth, and posterity can give due credit to a man's conscientious convictions in spite of the local prejudices of the hour. In that quarter, however, Prentiss had, even before his death, obliterated all local animosity against himself.

The following incident, the details of which appeared not long since in our local paper, gives a further and most touching illustration of Mr. Prentiss's *posthumous fame*. During our late unhappy war one of the Federal colonels sent to coerce our people into subjection was from the birthplace of Prentiss, and it so happened by the force of circumstances that he drifted to this very locality. On one of his raids into the country this Federal officer marched to "Rokeby." Subdued by the hallowed associations of the spot, he did not allow the soldiers to enter the yard. Standing at the outer gate, he pointed to the house and, in substance, said, "Soldiers, in that house young Prentiss taught his first school in Mississippi, let nothing about it be disturbed." He then wheeled his men and left. In the mean while the unprotected inmates of that homestead tremblingly watched at a distance this strange manœuvre, every moment expecting the swoop of the vultures, whose rude beak had so often lacerated their souls; they were, therefore, greatly astonished to see the troops wheel around and pass out of sight. Little did that family—who, like frightened birds, had hovered close beneath the wings of their mother—dream that the memory of their *father's tutor* had caused the angel of destruction to pass over and leave them unharmed. The mysterious halt and sudden departure of the troops was afterwards explained by a household servant, who overheard the command.

But the strange coincidence of this romantic episode did not end here. On the day of the raid the father of the "Rokeby" family—Prentiss's whilom pupil—happened to be absent from

home on a visit to Natchez. Upon returning the same evening, in order to avoid the Federal raiders he took a circuitous route, but unluckily fell right athwart their path. A miserable subaltern began to curse and abuse him, ordering him out of the road ; to obey the order was an impossibility, inasmuch as he was in a buggy, half-way up a hill, with high banks on either side of the road. He expostulated, but the officer kept insisting "that the d—d old rebel *should* get out of the way." They forced him back down-hill ; his horse and vehicle were then turned around, and he was ordered to "fall in and take the back track to Natchez."

The commanding officer knew nothing of this fracas until he was told of it by another one of the neighboring gentry, who had also just been captured and was being taken back to Natchez a prisoner. This gentleman told the officer that one of his subordinate officers was heaping abuse upon a most estimable gentleman, who was merely a civilian ; while speaking of him the *gentleman mentioned the name* ; immediately upon hearing this, the commander ordered the prisoner to be brought before him. Great was the prisoner's astonishment at the polite manner in which he was treated by this officer, and greater still was it when the colonel, calling over the *names of the "Rokeby" family one by one*, asked him which one of the *four boys he was*. "You see," said he, "I know you all by name ; I am from the same town as S. S. Prentiss, and am therefore familiar with his early history." This at once explained the officer's deferential manner and kindness of bearing. The two then indulged for a moment in a brief retrospect of the days of "long ago," and the result was that the prisoner was immediately permitted to return to his home, where he was met by his now delighted family, and they related to each other the strange events of the day.

The above incident is not unlike that which occurred between the rude soldiery of two opposing armies during a civil war in Spain, when they learned that they were upon the bank of the river where Cervantes was born. A truce was then proclaimed, and the enemies for a brief while met and exchanged friendly greetings. As the genius of the author of "Don Quixote" threw the halo of pacification over his hostile countrymen of Spain, so the genius of Prentiss melted for a moment the bitter

hatred of the hour, and shielded from desecration the *spot* which had been hallowed by his associations with it.

It was recently proposed by his lifelong friend and former pupil, Major G. B. Shields, that Mr. Prentiss's remains should be removed to the old city graveyard, just back of the Catholic cathedral, and that there an appropriate monument should be erected to his memory. He pleaded for this most eloquently, but in vain. *His* voice helped to *impose* upon *me* the task of writing this book. His recollections have often assisted me, and I was relying upon his further help, when, to my grief, his summons came suddenly, and before my work was fairly begun he, too, was called to the city of the silent, and I alone have been left to tell the tale. In doing so, let me, at its close, acknowledge that I feel I have but rearranged, in a different "setting," the jewels furnished by other loving hands, with only here and there an original gem.

Scores of pilgrims annually visit the grave of Prentiss. I have but this moment returned from the spot, and can therefore describe it as it is now. The graveyard is just two miles back of Natchez, upon the southwestern side of the road to Woodville, and nearly opposite the "Gloucester" residence. The lot is about fifty feet square, enclosed by a high brick wall, with an iron wicket. The only trees within the enclosure are the mimosa, the cedar, and the crape-myrtle, now in bloom. Rank and luxuriant vines and undergrowth cover the ground and festoon the tombs, looping over the places where the family graves have now and then been cleared off by friends. A plain headstone and a low footstone mark the grave. Upon the headstone is the following inscription :

S. S. PRENTISS.
Born at Portland, Me.,
Sept. 30th, 1808,
Departed this life
July 1st, 1850.
"I am the resurrection
and the life, he that
believeth on me,
though he were dead,
yet shall he live."

As I stood there and listened to the song of the birds in the surrounding forest, I remembered how he had depicted a fit resting-place for Lafayette, and could not but think how well he had prophetically described his own: "Let no cunning sculpture, no monumental marble deface with its mock dignity the patriot's grave, but rather let the unpruned vine, the wild-flower, and the free song of the uncaged bird, all that speaks of freedom and of peace, be gathered around it."

May we not trust that now,

"All his virtues blest and his sins forgiven,
His spirit is at rest with God in heaven."

APPENDIX.

GENEALOGY OF THE PRENTISS FAMILY.

FURNISHED BY SEARGENT PRENTISS NUTT, OF MISSISSIPPI.

THE first of the Prentice family in America was Valentine Prentice, who came over with the Apostle Eliot, in 1631, with his wife, Alice, and son, John, and settled in Roxbury, Massachusetts.

Next in order were Henry Prentice, of Cambridge, Captain Thomas Prentice, of Newton, Massachusetts, and perhaps Robert Prentice, of Roxbury. These were all cousins, and from them are descended all by that name in New England and the Middle States. The name is supposed to have been originally spelled "ice," but many spell it "iss" and some "is."

From Henry Prentice, of Cambridge, Seargent S. Prentiss is descended, in the seventh generation. This is one of the most distinguished families, and includes in it some of the most prominent men in New England. From him had descended no less than nine hundred descendants.

Some of the distinguished members of this branch were Sartell Prentiss, of Mount Hope, a friend of General Taylor's; Josiah S. Prentice, of Oxford; Rev. Thomas Prentice, of Charlestown; Dr. Nat. S. Prentice, of West Cambridge; Nathaniel Prentice, of Dunstable; William Henry Prentice, of Boston; Deacon Henry Prentice, of Cambridge; Joshua Prentiss, of Holliston; Joshua Prentiss, of Marblehead, Massachusetts; Henry Prentiss, of Boston; Rev. Caleb Prentiss, of South Reading; his son, John; William Spencer Prentiss, of Springfield, Indiana; and Seargent Smith, whose life we have given.

A genealogical table on the next page shows the line of descent from the original ancestor in this country to the subject of our biography.

Henry Prentice, of Cambridge, Mass., born in England, died 1654, O. S.; married Joan —

Mary, mar. — Hancock, from whom descended Gov. Hancock.	Solomon Prentice, B. 1656, D. 1719; mar. Hepzibah Dunn.	Abijah P.	Sarah, mar. — Woodward.	Henry P.	Samuel P.
Nathaniel P.	Deacon Henry Prentice, B. 1683, D. 1778; mar. Elizabeth Hand. He was deacon to Dr. Nat. Al- pleton's Presbyterian Church at Cambridge.	Samuel P.	Mary, mar. — Balch.		
Jehua P.	Caleb Prentice, B. 1721, D. in Cambridge, 1772; mar. Lydia Whittemon.	Mattha, mar. — Ware.	Elizabeth, mar. Rev. Amos Adams.	Hepzibah, mar. Rev. Jacob Foster.	Thomas P.
Rev. Caleb P., A.M., of Heding. He changed "ice" to "ies," and the others did likewise.	Elizabeth.	Samuel Prentice, B. 1753, in Cambridge, D. 1814, in Gorham, Me.; mar. Rebecca —.	William P., of Lexington, Ky.		Nathaniel P.
				Two daughters; one mar. — Deering.	Sarah, mar. — Hill.
	Captain William Prentice, B. 1778, D. 1826, in Falmouth, Me.; mar. Abigail Lewis. He was the owner of three large ships. He gave up the sea, and retired to farming near Gorham, Me.				
Caroline, R. 1806, D. 1810.	William P., B. 1807; mar. Angelina Hunt. They had nine children, and were living in New York City in 1850.	Sergeant Smith Prentice, B. Sept. 30, 1808.	Mary Caroline, B. 1813, D. 1816.	Abby Lewis, B. 1814, D. 1816.	George Lewis P., B. May 12, 1816.
					Hannah Smith, B. 1818; mar. Rev. J. French Stearns, of Newburyport, Mass. Have two children, Sergeant P. and Lewis French.

